

noted
me

Official Gazette



REPUBLIC OF THE PHILIPPINES

EDITED AT THE OFFICE OF THE PRESIDENT, UNDER COMMONWEALTH ACT NO. 638
ENTERED AS SECOND-CLASS MATTER, MANILA POST OFFICE, DECEMBER 26, 1905

Vol. 55

MANILA, PHILIPPINES, JANUARY 12, 1959

No. 2

TABLE OF CONTENTS

	Page		Page
THE OFFICIAL WEEK IN REVIEW	xiii	President Garcia's message on the occasion of the 67th birthday of the late President Manuel Roxas	220
EXECUTIVE ORDERS, PROCLAMATIONS, AND ADMINISTRATIVE ORDERS BY THE PRESIDENT:		DECISIONS OF THE SUPREME COURT:	
Executive Order No. 326, providing for the implementing details for Reorganization Plan No. 50 relative to social welfare	181	Philippine National Bank, plaintiff and appellant, vs. Jose C. Zulueta, defendant and appellee	222
Executive Order No. 327, extending the prohibition to slaughter carabaos up to June 30, 1959	211	Co Tao, petitioner, vs. The Court of Appeals, et al., respondents	232
Proclamation No. 549, revoking Executive Order No. 66, series of 1909, which reserved for Constabulary purposes a parcel of land situated in San Vicente, municipality of Ilagan, Isabela, and reserving the same for municipal government site purposes	212	In the matter of a petition for declaratory judgment regarding the validity of the Municipal Ordinance No. 3659 of the City of Manila. Physical Therapy Organization of the Philippines, Inc., petitioner, vs. The Municipal Board of the City of Manila, et al., respondents	237
Administrative Order No. 285, modifying Administrative Order No. 31, series of 1947, removing the bar to the reinstatement of former Judge Vicente Bautista of the Municipal Court of Manila	214	The People of the Philippines, plaintiff and appellant, vs. Melquiades Raba, et al., defendants. Clemente Talantor, defendant and appellee	243
DEPARTMENT AND BUREAU ADMINISTRATIVE ORDERS AND REGULATIONS:		DECISIONS OF THE COURT OF APPEALS:	
EXECUTIVE OFFICE—		Pedro Montero, et al., plaintiffs and appellees, vs. Delgado Brothers, Inc., defendant and appellant	245
Memorandum Circular No. 23 to all heads of departments, chiefs of bureaus and offices, etc.	215	Manuel del Rosario, et al., petitioners, vs. Benito Macrohon, et al., respondents	260
DEPARTMENT OF FINANCE—		Eugenio Lim, plaintiff and appellee, vs. Juanito Miranda, et al., defendants and appellants	265
BUREAU OF CUSTOMS—		Republic of the Philippines, petitioner and appellant, vs. Albino Abaniel, et al., claimants, heirs of Aniceto Clarin, claimants, and appellees	268
Customs Administrative Order No. 234, regulations governing entrance to, and exit from, the customs zone, including pier premises, South Harbor, Manila	215	LEGAL AND OFFICIAL NOTICES:	
APPOINTMENTS AND DESIGNATIONS	218	Courts of First Instance	277
HISTORICAL PAPERS AND DOCUMENTS:		Land Registration Commission	313
Message of President Garcia on the 62nd death anniversary of Dr. Jose Rizal	219	Bureau of Lands	406
President Garcia's new year's message issued on New Year's eve	219	Bureau of Mines	411
		Bureau of Public Works—	
		Notices of Application for Water Rights	413

OFFICIAL WEEK IN REVIEW

January 4.—**P**RESIDENT Garcia spent the day quietly at his Bohol avenue residence in Quezon City going over annual reports submitted by members of his Cabinet, from which he expects to get data for his yearly state-of-the-nation message to be delivered before a joint session of Congress on January 26.

The President woke up early this morning at Malacañang following the state dinner he gave last night in honor of visiting Prime Minister Tunku Abdul Rahman Putra of the Federation of Malaya.

The President and the First Lady heard mass at the Malacañang chapel. Also at the mass was Brig. Gen. Isagani V. Campo, new PC chief, with whom the President conferred briefly before breakfast.

About 9:30 a.m., the President boarded his car and motored to his Bohol Avenue residence in Quezon City. He was accompanied by Lt. Melchor Fronda, naval aide.

The Chief Executive spent most of the day closeted at his private study in his residence going over a pile of papers. He did not receive any caller.

PRESIDENT Garcia, through Executive Secretary Juan C. Pajo, upheld the City Mayor of Manila in two separate decisions, one dismissing from service an employee for grave insubordination, and another transferring a health officer from one division to another without change in salary.

In the first case, Mayor Lacson had found Vito Navales, time-keeper, department of engineering and public works of the City of Manila, guilty of insubordination and dismissed him from service for cause. Navales then appealed the order claiming it to be too severe and not commensurate with his crime.

In the other decision, Mayor Lacson had transferred Nazario A. Cantor, assistant administrative officer, from the administrative division to the division of veterinary service of the city health department. Cantor resented the Mayor's action and appealed it, claiming the order to be illegal and equivalent to removal from office without cause.

The President, however, said he saw no abuse on the part of the Mayor, adding that the Mayor's order in effect merely transferred him (Cantor) from one division to another, in the same department and without any change in salary.

The President said this power is expressly provided by sec. 11 (e) of Republic Act No. 409.

EXECUTIVE SECRETARY Juan C. Pajo sustained the decision of the commissioner of civil service holding that the mayor of Cebu City does not have the power to appoint officials and employees of the Osmeña Waterworks System.

On September 26, 1956, then Mayor Sergio Osmeña, Jr., relying merely on the opinion of the city fiscal that he had the sole power to appoint employees of the Osmeña Waterworks System and on the declaration by the Cebu court of first instance that Republic Act No. 1383, creating the NAWASA, was unconstitutional, extended the appointments of all but four employees of the said water system.

The services of the four employees, the superintendent, the general foreman, and two other permanent employees, all with a clean record of long service with the company, were considered terminated, their appointments not having been extended along with the rest by the City Mayor.

On December 20, 1956, the civil service commissioner issued a decision invalidating the appointments extended by Mayor Osmeña in the Osmeña Waterworks System on the ground that such power to appoint was not vested in the city executive but in the secretary of public works and communications, or the NAWASA.

Mayor Osmeña, in appealing the civil service ruling, contended that his power to appoint the men was provided for by Sec. 21 of the Charter of Cebu City, which states that "subject to the provisions of the Civil Service Law, the Mayor shall appoint all other officers and employees of the city whose appointments are not otherwise provided for by law."

Secretary Pajo in upholding the ruling of the commissioner of civil service, said that Republic Act No. 1383 vested the ownership and control of the Osmeña Waterworks System in the National Waterworks and Sewerage Authority, of which it has become part. Thus, Secretary Pajo said, the personnel of the Osmeña Waterworks System ceased to be city personnel and became personnel of the NAWASA.

The Executive Secretary concluded that any vacancy in the said waterworks system is a vacancy that shall be filled by the Secretary of Public Works and Communications upon recommendation of the NAWASA, in accordance with Sec. 79 (d) of the Revised Administrative Code.

January 5.—**P**RESIDENT Garcia received today members of the Philippine delegation who are leaving tomorrow to attend the conference of the Economic Commission for Asia and the Far East which will start Thursday and wind up on January 19.

The President gave last-minute instructions to the Philippine delegation and urged them to find ways and means to improve trade relations of the Philippines with member countries of the ECAFE.

Members of the PI delegation leaving tomorrow are Undersecretary of Commerce Perfecto Laguio, chairman; Fernando E. V. Sison, vice-chairman; and A. B. Isip, Anastacio Bartolome, Gaudencio Antonino, E. V. Mendoza, Mrs. Inocencia Mendoza, and Roberto Garcia, members.

The President told the delegation to explore at the same time markets for Philippine products. He said that the members, while espousing the Philippine views on economics, should likewise plot ways to find markets for PI products.

The President also received Rep. Antonio Raquiza, who discussed with the Chief Executive plans to export surplus Virginia leaf tobacco.

Raquiza had recently lauded the President for his rejection of a proposal to import additional Virginia leaf tobacco to fill up an alleged shortage in the local tobacco stocks.

The President also conferred with Commodore Jose Francisco, commander of the Philippine Navy. President Garcia gave final instructions to the Navy commander prior to his departure for Australia.

In the afternoon, the President worked on pending state papers.

MALACAÑANG released today the names of 70 additional prisoners granted executive clemency by President Garcia on New Year's Day.

This brings to 125 the total number of prisoners pardoned by the President with the advent of 1959. The names of 55 pardoned prisoners were announced by Malacañang last January 1.

January 6.—**P**RESIDENT Garcia conferred today with Congressional leaders and top fiscal advisers at his Quezon City residence for three hours and made a general review of the economic problems facing the country with the view to formulating remedial measures to be recommended for enactment in the forthcoming regular session of Congress.

The Chief Executive said after the conference that no conclusions have as yet been made but added that he has scheduled two or three more conferences with the same group, after which he expects that concrete decisions would be arrived at.

In this connection, the President said that the group will meet next Friday to speed up the work.

The conference started at about 9 a.m., after breakfast and broke up at 1:30 p.m. Speaker Daniel Z. Romualdez did not attend the conference, as he was in Leyte.

Congressional leaders present were Senate President Eulogio Rodriguez, Sr., Senate President Protempore Fernando Lopez, Speaker Protempore Constandio Castañeda, Senate Majority Floor Leader Cipriano Primicias, Sr., House Majority Floor Leader Jose Aldeguer, Senate Finance Committee Chairman Gil J. Puyat, Senate Banks Committee Chairman Pedro Sabido, and House Appropriations Vice-Chairman Ramon Mitra.

The fiscal advisers were Finance Secretary Jaime Hernandez, Budget Commissioner Dominador Aytona, National Economic Council Chairman Jose Locsin, Central Bank Governor Miguel Cuaderno, Philippine National Bank President Eduardo Z. Romualdez, and Development Bank Chairman Gregorio Licaros.

Earlier, President and Mrs. Garcia heard mass at the Malacañang chapel on the occasion of the Feast of the Three Kings. After mass, the President motored to his Quezon City residence to preside over the conference.

The President approved today five scholarship grants in the University of the Philippines for students from the Republic of Malaya.

Press Secretary Jose C. Nable said the five fields of education to be offered by the State University are public administration, economics, Asian studies, statistics, and labor education.

The decision of President Garcia was transmitted to Vicente G. Sinco, president of the University of the Philippines, for implementation. An appropriation of about P3,500.00 per student will be earmarked for this purpose. This amount will provide for tuition expenses, books, and board and lodging during one academic year.

In approving the scholarship grants, President Garcia said that the courses offered by the University in these particular fields are on a level comparable to the programs of some of the best universities abroad.

The President's action on the scholarship grant may be interpreted as a positive step in furthering the pronouncements made in the Joint Communique which was issued simultaneously earlier today.

January 7.—**P**RESIDENT and Mrs. Garcia had breakfast with Malayan Prime Minister and Mrs. Tunku Abdul Rahman, Foreign Affairs Secretary and Mrs. Felixberto Serrano, and members of the official entourage of the visiting dignitary.

After breakfast, President and Mrs. Garcia exchanged gifts with Prime Minister Rahman and his wife, Puan Sharifah Roziah. After a few pleasantries, President and Mrs. Garcia accompanied the distinguished visitors to the Malacañang stairs to say goodbye and wish them a safe journey home.

The Malayan Prime Minister and members of his entourage left Malacañang at 8:45 a.m. and motored to the Manila International Airport. They departed at 9:30 a.m. on board a chartered Malayan Airways plane after a five-day state visit.

After the departure of the visitors, President Garcia had a closed door conference with Col. Nicanor Jimenez, NICA chief, and then received U. S. Ambassador Charles Bohlen at the Malacañang music room.

The President conferred with Ambassador Bohlen on the implementation of a special import tax on American goods.

The President informed the U. S. Ambassador that one of the measures aimed at stabilizing the Philippine peso calls for a 17 per cent special import tax.

Press Secretary Jose C. Nable said that the Philippine view would be transmitted to Washington by Ambassador Bohlen. Another meeting between the President and the Ambassador will be held immediately after word is received from Washington, Nable said.

The conference which lasted for 20 minutes was held in a cordial atmosphere.

NARRA general manager Mrs. Remedios Fortich, and Directors Valeriano Plantilla and Rafael Hilao saw President Garcia to ask for the early release of funds for the government agency.

Other callers this morning were Defense Secretary Jesus Vargas, Rep. Manuel Zosa of Cebu, Reparations Commissioner Juan Alberto, and SSS Director Danny Gaviola.

PRESIDENT Garcia this evening told the members of his Cabinet he would seek public participation in the formation of a private corporation to operate the 12 ocean-going vessels which the National Development Company intends to buy from Japan.

President Garcia made the announcement after the Cabinet had ratified the NDC plan to acquire 12 ocean-going vessels from Japan.

He told the Cabinet he would like the public to share in the formation of a private corporation to operate these vessels, as the government would not want to enter into business as long as private capital is willing to handle the business.

At the Cabinet meeting this afternoon, the President and his advisory body authorized the NDC manager to enter into negotiations with Japanese shipbuilders for the acquisition of the 12 ocean-going vessels.

In authorizing the NDC manager, the Cabinet imposed the following conditions:

1. That the price of the vessels should not be more than \$313 per dead weight ton each;
2. That the price of each vessel should not exceed \$3.6 million;
3. That the weight of each vessel should not be less than 11,500 dead weight ton each;
4. That speed requirement must be determined for the purpose of trial and service;
5. That in the event of a dispute, arbitration should be undertaken by a three-man committee to be composed of one representative each on behalf of the Philippine and Japanese governments and the third member to be determined by these two panel members;
6. That a final test must be made before delivery is made to the Philippines; and
7. That the President be asked to review the contract before it is finally signed by the parties.

The Cabinet approved the acquisition of the vessels and the conditions for their purchase after listening to representatives of the private shipping companies.

Generoso Tanseco, of the General Shipping Company and president of the Philippine Shipping Association, and Roberto Ho, of the Magsaysay Shipping Company and vice-president of the PSA, said that the prices proposed by the NDC were reasonable.

The Cabinet also reviewed the draft of a preliminary contract. It was explained that the contract proper will be prepared shortly to embody the conditions listed by the Cabinet.

President Garcia had previously approved the NDC plan to acquire 12 ocean-going vessels to serve as the nucleus of the Philippine merchant fleet. These vessels will be bigger than the *Doña* boats owned by the NDC and operated by the National Lines. The *Doña* vessels are 10,000 dead weight ton each.

In another move, President Garcia and the Cabinet disapproved a request of Jose Corominas for lowering the price of Rhodesian corn and directed the NARIC to hold another public bidding.

At the same time, the President directed Justice Buenaventura Ocampo, chairman of the Presidential Committee on Administration Performance Efficiency, to investigate the bidding.

The President specifically directed Ocampo to inquire why the contract between the NARIC management and Corominas was different from the conditions announced during the public bidding.

The Cabinet was told that Corominas won the public bid at P186 per metric ton of Rhodesian corn but subsequently refused to go through with the purchase for certain reasons. Ocampo was asked to look into this.

The President expressed impatience and was angered when he received the preliminary report on the matter. NARIC Chairman Chioco was present during the meeting.

January 8.—**T**HIS morning, the President had a breakfast conference with Sen. Pacita Madrigal-Gonzalez, chairman of the Senate committee on social justice, community development, and welfare, on means to update the social justice program of the Administration. Executive Secretary Juan C. Pajo was present at the meeting.

Sen. Gonzalez submitted to President Garcia a report on the survey made by her group which contained the following recommendations:

(1) More emphasis should be put by the government on the social justice projects which are the cornerstone of the Administration's economic development program.

(2) Red tape and other unnecessary delays in satisfying the wants of people in community development and social projects should be minimized if not eliminated.

(3) Centralization of the local cottage industries in one comprehensive agency of the government, should be effected unlike at present where several government offices are doing the same undertaking.

(4) Emphasis should be given on more improved coordination among personnel of different government agencies working on social justice projects.

(5) Construction of more feeder roads and setting up of more community projects should be undertaken.

(6) There should be an increase of rural health units and community welfare projects.

(7) Personalized service to the people should be extended.

President Garcia today sat down with officials of the Social Security System to map out a program of expanded social services aimed at giving SSS members a better deal.

During the conference held at Malacañang, President Garcia expressed his determination to have the state firm embark on a low cost housing project to afford the lowliest daily wage earner a decent place to live in and at a range within his means.

The SSS officials were directed to gear their program of activities for the next fiscal year to the achievement of the project.

Officials of the state firm who conferred with President Garcia were Board Chairman Gonzalo Gonzalez, Administrator Emeterio Roa, and the following board members: Labor Secretary Angel Castaño, SWA Administrator Amparo Villamor, Ramon Gaviola, Jr., GSIS General Manager Rodolfo Andal, and Ildefonso Remolona.

Earlier, President Garcia received former President Sergio Osmeña, Sr., who paid him a courtesy call.

The President also signed the appointment of Nicanor A. Roxas as envoy extraordinary and minister plenipotentiary to the Netherlands.

The President also had a conference with Chairman Rodolfo Maslog and Commissioners Juan Alberto and Alejo Santos of the Reparations Commission on routine matters.

IN the afternoon, President and Mrs. Garcia received members of the Le Theatre D'Art Du Ballet troupe who paid a 10-minute courtesy call at Malacañang accompanied by Alfredo Lozano, impresario.

The President and the First Lady thanked them for coming to the Philippines and told the members of the dance group that they were looking forward with pleasure to watching them perform at their gala premiere tonight at the University Theater, U.P., Diliman, Quezon City.

Rep. Canuto Enerio of Zamboanga del Sur called on President Garcia to inform him about the serious infestation problem in his province. Not

much remains to be salvaged of the bumper crop that was originally expected in Zamboanga del Sur, Enerio said.

The Mindanao solon requested financial aid from the President's contingent funds for the purchase of chemicals to be used in killing the rodents with the help of the different agencies of the Department of Agriculture and Natural Resources.

Another presidential caller this afternoon was Rep. Fausto Dugenio of Misamis Oriental, who asked President Garcia to expedite the release of money from the contingent funds to repair the damage to public works caused by the typhoons that hit Misamis Oriental late last year. He also informed the President of the present political situation in the province.

Rep. Dugenio was accompanied by Major Tommy Chavez, Major Gerardo Roa of Salay of Misamis Oriental, and Dr. Florencio Du, representing the Florencio Reyes and Co., hardware importers.

President Garcia also received NEC Chairman Jose C. Locsin and members of the Philippine Sugar Planters Association headed by Jose Mapa Gomez, association president, who briefed the President on the reported unrest among the sugar workers in Negros Occidental.

THIS evening President Garcia directed Executive Secretary Juan C. Pajo to go to Negros Occidental to investigate personally the cause of rampant burning of sugar cane fields in the province.

In dispatching the executive secretary, the President expressed concern over the effect of such rampant destruction of canefields on the sugar industry, one of the nation's main dollar-earning industries.

He said that this being the harvest season, it is important that the burning be stopped right away. He expressed fear that the cane destruction, if continued, might have adverse effects on the economy.

President Garcia's instructions to Secretary Pajo followed a briefing on the labor unrest, situation in Negros Occidental during a conference this evening with members of the Philippine Sugar Planters Association headed by Jose Mapa Gomez, association president.

Secretary Pajo will fly to Bacolod first hour tomorrow morning aboard a Philippine Air Force plane.

President Garcia accepted today the resignation of Socorro Ke. Ladrera as chairman of the board of directors of the People's Homesite and Housing Corporation.

Press Secretary Jose C. Nable said that the President will announce soon the successor to Ladrera. He said that President Garcia received Ladrera's letter of resignation late this afternoon and immediately instructed Executive Secretary Juan C. Pajo to write the note of acceptance.

Secretary Nable spiked reports appearing in some metropolitan newspapers that Ladrera was being groomed for another government post. "There is absolutely no truth to this report," he stated.

THIS evening President and Mrs. Garcia motored to Diliman, Quezon City, to attend the Gala performance of the Le Theatre D'Art Du Ballet in the U.P. theater.

January 9.—**P**RESIDENT Garcia this morning conferred with members of the Council of Leaders and economic advisers at his Quezon City residence and made a few conclusions which will be incorporated in his message to Congress when it convenes on the last Monday of this month.

The agreements, the President said after the conference, are aimed at strengthening the fiscal position of the government and improving the different social services already undertaken by the Administration.

These services, the President added, are low-cost housing projects, community development projects in rural areas, distribution of public lands for landless people in projects of the National Resettlement and Rehabilitation Administration, and other similar services.

In connection with the low-cost housing project of the Administration, it will be recalled that President Garcia last Thursday conferred with officials of the Social Security System and directed them to gear the program of the system for the coming fiscal year to the achievement of the project.

The President said that he had agreed with congressional leaders and his economic advisers on the following points:

- (1) The repeal of Republic Act No. 1410;
- (2) Reexamination of the Reparations Act in order to correct the present defects in legislation; and
- (3) Reexamination of the tax exemption law.

The conference started about 8 a.m., continued during lunch, and finally broke up about 3:20 p.m.

Present at the conference were Senate President Eulogio Rodriguez, Speaker Daniel Z. Romualdez, Senate President Protempore Fernando Lopez, Speaker Protempore Constancio Castañeda, Senate Majority Floor Leader Cipriano Primicias, House Majority Floor Leader Jose Aldeguer, Sens. Gil J. Puyat and Pedro Sabido, Reps. Tobias Fornier and Jose Roy, Finance Secretary Jaime Hernandez, Budget Commissioner Dominador Aytona, National Economic Council Chairman Jose Locsin, Central Bank Governor Miguel Cuaderno, Philippine National Bank President Eduardo Z. Romualdez, and Development Bank Chairman Gregorio Licaros.

Feeling very tired after some seven hours conference with the Council of Leaders, the President cancelled his regular press conference in the afternoon.

January 10.—**T**HE Chief Executive resumed going over voluminous reports from his department secretaries at his Bohol Avenue residence in Quezon City today. He closeted himself in his study where he worked on the outline of his state-of-the-nation message to congress on January 26.

About 10 a.m., the President took time out of his work to receive Lt. Gen. Manuel Cabal, AFP chief of staff, and Brig. Gen. Isagani V. Campo, PC chief. He conferred with the two generals for about an hour.

The Chief Executive did not receive any other caller the whole day.

Meanwhile, Press Secretary Jose C. Nable announced today that President Garcia will recommend to Congress the approval of a measure which will extend more responsibility and more autonomy to local governments.

The President's plan is in keeping with the clamour of provincial and city executive who had been agitating during the last years for more independence from the national government, Secretary Nable said.

The President feels that present laws regulating the relations of local governments to the Chief Executive are no longer responsive to the needs of the present age. He said that while he had all the intention to do so much for the localities, he could only do so on a limited scale.

EXECUTIVE ORDERS, PROCLAMATIONS AND ADMINISTRATIVE ORDERS

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER No. 326

PROVIDING FOR THE IMPLEMENTING DETAILS FOR REORGANIZATION PLAN NO. 50 RELATIVE TO SOCIAL WELFARE

Pursuant to the powers vested in me by Republic Act Numbered Nine hundred and ninety-seven, as amended by Republic Act Numbered One thousand two hundred and forty-one, and upon the recommendation of the Government Survey and Reorganization Commission, the following Implementing Details of Reorganization Plan No. 50, which relate to Social Welfare are hereby promulgated to govern the organization, powers, duties, and functions of the Social Welfare Administration.

ORGANIZATION OF THE SOCIAL WELFARE ADMINISTRATION

SECTION 1. The organization, functions, and operations of the Social Welfare Administration, hereinafter referred to as the "Administration," shall be in accordance with the provisions of Reorganization Plan No. 50, hereinafter referred to as the "Plan," and these Implementing Details.

SEC. 2. The organization of the Administration, as graphically depicted in the following organization charts, shall consist of the Office of the Administrator, Office of the Assistant to the Administrator, Office of Administrative Services, Office of Child Welfare, Office of Vocational Rehabilitation, and Office of Public Assistance, all hereinafter referred to as the "headquarters entities"; and Regional Offices with their corresponding provincial, municipal, and city offices, all hereinafter referred to as the "field offices".

SEC. 3. The Social Welfare Administrator, hereinafter referred to as the "Administrator," is authorized to make such changes in the organization, definition of functions, and distribution of work among entities in the Administration as may be necessary to reflect changes in legislation, conditions, needs, or workloads: *Provided*, That no such changes may be made during fiscal year 1957 without specific approval of the President: *And provided*,

further, That any such changes must be in conformity with the general pattern of organization set forth in the Plan and in these Implementing Details.

FUNCTIONAL STATEMENTS OF THE SOCIAL WELFARE
ADMINISTRATOR

Functions of the Social Welfare Administrator

SEC. 4. The functions, powers, duties, and responsibilities of the Administrator shall consist of those provided in pertinent provisions of the Revised Administrative Code and other pertinent laws, and those provided in the Plan and in these Implementing Details. The Administrator shall have the following functions, among others:

- (a) recommend to and advise the President on matters relating to social welfare policies;
- (b) direct and be responsible for the over-all operations of the Administration;
- (c) promulgate rules and regulations necessary to carry out the objectives and functions of the Administration; and
- (d) delegate authority for the performance of any function or set of functions to officers and employees of the Administration.

*Functions of the Office of the Assistant to the
Administrator*

SEC. 5. The Office of the Assistant to the Administrator shall provide legal services, public information services, and staff training for headquarters entities, in accordance with section 3 of the Plan, and shall establish policies, standards, rules, and regulations for the guidance and compliance of field offices in these matters. This office shall have a Public Information Section, a Legal Services Section, and a Staff Training Section, with corresponding duties and responsibilities as follows:

- (a) The Public Information Section shall have the following functions, among others:
 - (1) perform the functions enumerated in section 3(a) of the Plan; and
 - (2) report to the Administrator on international and inter-agency matters affecting programs of the Administration.
- (b) The Legal Services Section shall perform the functions enumerated in section 3(b) of the Plan.
- (c) The Staff Training section shall have the following functions, among others:
 - (1) perform the functions enumerated in section 3(c) of the Plan; and
 - (2) develop a program to secure fellowships, scholarships, and grants for the staff.

Functions of the Office of Administrative Services

SEC. 6. The Office of Administrative Services shall be responsible for activities including, but not limited to,

those relating to the functions enumerated in section 5 of the Plan and for organization and methods of improvement. This Office shall provide these services to headquarters entities and shall establish policies, standards, rules, and regulations for the guidance and compliance of field offices in these matters.

SEC. 7. The Office of Administrative Services shall have a Budget and Finance Division, a Personnel and Records Division, a Statistical Division, a Property and General Services Division, and a Solicitation Permit Division.

SEC. 8. The Budget and Finance Division shall perform functions including, but not limited to, those enumerated in section 5(a) of the Plan. This Division shall have a Budget Section and a Fiscal Control Section, with corresponding duties and responsibilities as follows:

- (a) The Budget Section shall have the following functions, among others:
 - (1) prepare budgets of the Administration;
 - (2) control expenditures of budgeted funds;
 - (3) coordinate the allotments of relief funds to provincial branches in accordance with provincial needs;
 - (4) review budget estimates of field offices;
 - (5) approve field requisitions for funds and supplies;
 - (6) prepare recommendations on budgetary policies and procedures; and
 - (7) provide policy guidance and consultative services to field personnel concerned.
- (b) The Fiscal Control Section shall have the following functions, among others:
 - (1) keep custody of Administration funds;
 - (2) pay approved claims;
 - (3) prepare monthly reports of income and obligations;
 - (4) prepare recommendations on the establishment, maintenance, and review of fiscal controls;
 - (5) spot check signatures on relief rolls; and
 - (6) provide policy guidance and consultative services to field personnel concerned.

SEC. 9. The Personnel and Records Division shall perform functions including, but not limited to, those enumerated in section 5(b) of the Plan. This Division shall have a Personnel Section and a Records Section, with corresponding duties and responsibilities as follows:

- (a) The Personnel Section shall have the following functions, among others:
 - (1) establish and manage, subject to civil service and other personnel rules and regulations, a personnel program which includes preparation of position descriptions and qualification standards for purposes of selective recruitment, appointment, and promotion;
 - (2) act on matters concerning attendance, leaves of absence, appointments, promotions, transfers, and efficiency records;

- (3) maintain a central file of personnel records for all employees of the Administration;
 - (4) maintain liaison with other agencies of government involved in personnel transactions and related matters; and
 - (5) provide policy guidance and consultative services to field personnel concerned.
- (b) The Records Section shall have the following functions, among others:
- (1) receive and distribute incoming and outgoing communications;
 - (2) maintain central files of records and documents and develop and maintain controls for filed materials; and
 - (3) provide policy guidance and consultative services to field personnel concerned.

SEC. 10. The Statistical Division shall perform functions including, but not limited to, those enumerated in section 5(c) of the Plan, subject to the authority of the Office of the Statistical Coordination and Standards of the National Economic Council to allocate statistical activities and to prescribe methodology and standards among statistical entities. This Division shall have the following functions, among others:

- (a) conduct statistical phases of surveys and research work undertaken by the Administration, including the collection and analysis of statistical data relative to its administrative and program operations, and prepare and publish statistical reports;
- (b) Develop a program, in conjunction with organization and methods personnel, to coordinate and control reports requested by the various entities of the Administration with a goal of limiting the number of the reports required of personnel by other than their immediate supervisors;
- (c) maintain the Administration's library; and
- (d) provide policy guidance and consultative services to field personnel concerned.

SEC. 11. The Property and General Services Division shall perform functions including, but not limited to, those enumerated in section 5(d) of the Plan, subject to applicable policies, rules, and standards established by the Department of General Services. This Division shall have a Procurement Section and a General Services Section, with corresponding duties and responsibilities as follows:

- (a) The Procurement Section shall have the following functions, among others:
 - (1) procure, store, and ship administrative and relief materials, equipment, and supplies handled through the Headquarters Office; and
 - (2) provide policy guidance and consultative services to field personnel concerned.
- (b) The General Services Section shall have the following functions, among others:
 - (1) provide property maintenance janitorial, and other building services;

- (2) manage the transportation facilities, including maintenance of vehicles;
- (3) provide and coordinate messenger service;
- (4) provide guarding services, including the prevention of theft, fire, accidents, unlawful entry, and similar hazards; and
- (5) provide policy guidance and consultative services to field personnel concerned.

SEC. 12. The Solicitation Permit Division shall have the following functions, among others:

- (a) perform the function enumerated in section 5(e) of the Plan;
- (b) prepare rules and regulations covering the issuance of permits for solicitations and the review of expenditures for solicitations; and
- (c) provide policy guidance and consultative services to field personnel concerned.

Functions of the Office of Child Welfare

SEC. 13. The Office of Child Welfare shall be responsible for functions including, but not limited to, those enumerated in section 10 of the Plan. This Office shall establish policies, standards, rules, and regulations for the guidance and compliance of field offices to which related operating functions are delegated, except as herein otherwise provided.

SEC. 14. The Office of Child Welfare shall have a Division of Child Welfare Services and a Division of Institutions.

SEC. 15. The Division of Child Welfare shall be responsible for the development of programs relating to child aid and placement, counseling, and group care activities. This Division shall have a Probation and Parole Section, a Child Aid and Placement Section, and a Group Care Section, with corresponding duties and responsibilities as follows:

- (a) The Probation and Parole Section shall have the following functions, among others:
 - (1) establish standards and develop programs for social case studies of juvenile delinquents in conjunction with policies established by proper courts of justice;
 - (2) cooperate with other welfare agencies in the promotion and development of welfare services through conferences, lectures, seminars, and related activities;
 - (3) study and formulate measures to provide effective supervision, guidance, and rehabilitation as necessary to juvenile offenders on probation and parole and to children with behaviour problems; and
 - (4) provide policy guidance and consultative services to field offices.
- (b) The Child Aid and Placement Section shall have the following functions, among others:
 - (1) establish standards and develop programs for the care and rehabilitation of dependent, neglected, and destitute children outside of institutions, either in their

- own homes or in foster homes; and for the care and rehabilitation of unmarried mothers, including future care and disposition of their children; and
- (2) provide policy guidance and consultative services to field offices in the conduct of social case studies in these areas.
- (c) The Group Care Section shall have the following functions, among others:
- (1) develop program for the establishment of community councils for providing guidance and protection to children and for the prevention and treatment of juvenile delinquency;
 - (2) review and evaluate accomplishments and make necessary program adjustments;
 - (3) develop plans for the organization of juvenile control units in local police departments and for the organization of junior police units;
 - (4) develop plans for coordination of public and private child welfare activities; and
 - (5) provide policy guidance and consultative services to field personnel concerned.

SEC. 16. The Division of Institutions shall be responsible for direction and supervision of the Administration's institutional programs. This Division shall have the following duties, responsibilities, and functions, among others:

- (a) supervises Welfareville Institutions providing care, training, and rehabilitation of children;
- (b) supervise the Welfare Home for Women and Girls, providing care, training, and rehabilitation of wayward females;
- (c) determine community needs for the services of privately operated child care institutions and pass upon the eligibility and fitness of such institutions in the Manila area;
- (d) provide standards for determining the eligibility and fitness of child welfare institutions for application by regional and unit offices;
- (e) establish, maintain, and improve standards and conditions in institutions caring for children; and
- (f) inspect licensed private child caring institutions to protect wards against practices detrimental to the moral and physical well-being of the children.

SEC. 71. The functions, duties, and responsibilities of the Welfareville Institutions are not affected by the Plan, except as provided in section 13 of the Plan.

SEC. 18. The functions, duties and responsibilities of the Welfare Home for Women and Girls are not affected by the Plan.

Functions of the Office of Vocational Rehabilitation

SEC. 19. The Office of Vocational Rehabilitation shall be responsible for functions including, but not limited to, those enumerated in section 14 of the Plan. This Office shall establish policies, standards, rules, and regulations for the guidance and compliance of the field of-

fices to which related social case studies and follow-up activities are delegated.

SEC. 20. The Office of Vocational Rehabilitation shall have a Division of Rehabilitation Standards, a Division of Rehabilitation Services, and a Pilot Rehabilitation Training Center.

SEC. 21. The Division of Rehabilitation Standards shall have the following functions, among others:

- (a) develop training programs for physically handicapped persons emphasizing vocational rehabilitation;
- (b) provide technical guidance and advise to the Pilot Rehabilitation Training Center in carrying out the training program;
- (c) review and evaluate operations of the rehabilitation program and make recommendations for adjustments as may be necessary;
- (d) study and formulate measures for the improvement of the basic techniques involved in the rehabilitation process;
- (e) correlate the rehabilitation program with the over-all program of the Administration; and
- (f) maintain liaison with and draw advice and assistance from agencies, both public and private, concerned with the welfare of physically handicapped persons.

SEC. 22. The Division of Rehabilitation Services shall be responsible for the development of programs to provide rehabilitation services to the physically handicapped clients of the Administration. This Division shall have Services to the Non-Blind Section, Services to the Blind Section, an Advisement Services Section, and a Placement Services Section.

- (a) The Services to the Non-Blind Section shall have the following functions, among others:
 - (1) initiate and develop a program to provide medical, economic and social services to the physically handicapped clients other than the blind;
 - (2) review and evaluate field operations in this area for necessary adjustments in the program; and
 - (3) provide policy guidance and consultative services to personnel concerned in the field offices.
- (b) The Services to the Blind Section shall have the following functions, among others:
 - (1) initiate and develop a program to provide medical, economic, and social services to the physically handicapped clients who are blind;
 - (2) review and evaluate field operations in this area for adjustments in the program as may be necessary; and
 - (3) provide policy guidance and consultative services to personnel concerned in the field offices.
- (c) The Advisement Services Section shall have the following functions, among others:
 - (1) initiate and develop plans and programs for aptitude testing of physically handicapped clients, including counseling and advisement services, to assist them in their vocational adjustment problems;

- (2) review and evaluate field operations in this area for necessary adjustments in plans and programs; and provide policy guidance and consultative services to personnel concerned in the field offices.
- (d) The Placement Services Section shall have the following functions, among others:
 - (1) develop a program for placement of physically handicapped people;
 - (2) encourage and develop employment opportunities for the physically handicapped through public contacts and educational campaigns;
 - (3) maintain liaison with employers hiring rehabilitated physically handicapped persons for post-placement review; and
 - (4) provide policy guidance and consultative services in this area to personnel concerned.

SEC. 23. The Pilot Rehabilitation Training Center shall have the following functions, among others:

- (1) administer the training program for the physically handicapped, including training in vocational pursuits and in social adjustment;
- (2) administer a workshop for the physically handicapped with dual purpose of training and of production of goods for sale in private marketing outlets;
- (3) certify and recommend trained physically handicapped for employment opportunities through the placement services; and
- (4) conduct follow-up of the physically handicapped who have undergone training in the Center for their complete social adjustment.

Functions of the Office of Public Assistance

SEC. 24. The Office of Public Assistance shall be responsible for functions including, but not limited to, those enumerated in section 7 of the Plan. This Office shall establish policies, standards, rules, and regulations for the guidance and compliance of field offices to which related operating functions are delegated, except as herein otherwise provided.

SEC. 25. The Office of Public Assistance shall have a Division of Social Services, a Division of Assistance, and a Division of Field Services.

SEC. 26. The Division of Social Services shall be responsible for the development of programs relating to medical social services and self-help projects to reduce material assistance, and shall direct the screening of applicants for low-income public housing projects. This Division shall have a Medical Social Services Section, a Family Welfare Services Section, a Self-Help Project Section, and a Resettlement and Housing Section, with corresponding duties and responsibilities as follows:

- (a) The Medical Social Services shall have the following functions, among others:
 - (1) set standards and initiate and develop programs for providing medical social services to clients;

- (2) review and evaluate medical social work performed by field offices; and
 - (3) provide policy guidance and consultative services to field personnel concerned.
- (b) The Family Welfare Services Section shall have the following functions, among others:
- (1) set standards and initiate and develop programs for providing social services to families in need of social and economic guidance and aid;
 - (2) review and evaluate such social services rendered by field offices; and
 - (3) provide policy guidance and consultative services to field personnel concerned.
- (c) The Self-Help Project Section shall have the following functions, among others:
- (1) develop and encourage self-help projects which will result in significant reduction of material assistance to the needy;
 - (2) develop working relationships on community development projects with other government entities at national and local levels;
 - (3) plan and direct a community kitchen demonstration program; and
 - (4) provide policy guidance and consultative services to field personnel concerned.
- (d) The Resettlement and Housing Section shall have the following functions, among others:
- (1) survey public and private slum and squatter areas in Manila and its suburbs and encourage squatters to move to government resettlement areas or elsewhere with the aid of government facilities and services;
 - (2) locate and recommend resettlement areas to families who have been ejected or who are facing ejection as a result of the Slum Clearance Program; and
 - (3) screen applicants for admission to low-income public housing projects and certify their eligibility to the Peoples Homesite and Housing Corporation in accordance with agreements and requests.

SEC. 27. The Division of Assistance shall be responsible for the development of program relating to the granting of material aid to people in need, and shall be responsible for the operation and maintenance of the Home for the Aged and Infirm. This Division shall have a General Assistance Section and a Special Assistance Section with corresponding duties and responsibilities as follows:

- (a) The General Assistance Section shall have the following functions, among others:
- (1) establish eligibility standards and assistance standards for people in need of material aid;
 - (2) initiate and develop programs and set operating goals in this area;
 - (3) review and evaluate field operations and adjust programs as necessary;
 - (4) set policies and standards governing the operation and maintenance of the Home for the Aged and Infirm; and

- (5) provide policy guidance and consultative services to field personnel concerned.
- (b) The Special Assistance Section shall have the following functions, among others:
 - (1) establish policies and standards for the guidance of field offices on the granting of material aid to victims of natural disasters dissident operations, and other special cases;
 - (2) participate in the above activities as needed and directed; and
 - (3) maintain liaison with the Philippine National Red Cross and similar relief agencies in the administration of emergency relief programs.

SEC. 28. The Division of Field Services shall be responsible for the direction, supervision, and coordination of activities of field offices of the Administration, and shall have the following functions, among others:

- (a) exercise direct line authority over the field offices;
- (b) take such steps as may be necessary to insure that field offices comply with and carry out program plans, policies, report requirements work schedules, and related matters prescribed by appropriate headquarters entities;
- (c) analyze and evaluate field operations reports and statistics; advise the Administrator through the Chief of Public Assistance on field developments; and report to, and confer with, the various headquarters entities concerned with the development of the Administration's programs;
- (d) maintain liaison contacts with headquarters administrative entities on matters affecting the operations of the field offices; and
- (e) develop and maintain in current condition a manual of standards and procedures for the guidance and compliance of field offices, based upon policies and related instructions developed by the headquarters entities concerned.

Functions of Regional Offices

SEC. 29. Each regional office shall be responsible in its geographical area for welfare services and activities delegated to it and shall have the following functions, among others:

- (a) administer, direct, and coordinate all welfare functions in the region, subject to direct authority from the Office of Public Assistance through the Division of Field Services;
- (b) execute and implement policies, regulations, and work plans established by appropriate headquarters entities and render administrative decisions on these matters within the limits of delegated authority; and
- (c) maintain cooperative and harmonious relationship with other entities and agencies, public and private, in the promotion of community development and welfare.

SEC. 30. There shall be eight regional offices for the Administration in conformance with the pattern set forth in Reorganization Plan No. 53-A and its Implementing Details.

SEC. 31. Each regional office shall have an Administrative Section, a Public Assistance Section, a Child Welfare Section, and a Vocational Rehabilitation Section.

SEC. 32. Subject to policy instructions, standards, rules, and regulations by appropriate headquarters entities and under administrative supervision, direction, and control of the Regional Director, the Administrative Section shall have the following functions, among others:

- (a) prepare budget estimates;
- (b) account for expenditures;
- (c) collect and disburse funds;
- (d) maintain equipment and other property;
- (e) process requisitions for equipment and supplies and make corresponding purchases;
- (f) maintain and operate a central service for transportation;
- (g) handle personnel matters, including in-service training of field personnel;
- (h) provide messenger and other general utility service;
- (i) gather and compile statistics as required by appropriate headquarters entities; and
- (j) issue solicitation permits.

SEC. 32. Subject to policy instructions, standards, rules, and regulations by appropriate headquarters entities and under administrative supervision, direction, and control of the Regional Director, the Public Assistance Section shall have the following functions, among others:

- (a) provide general staff assistance to the Regional Director in the administration of public assistance programs;
- (b) interpret public assistance programs into realistic operating schedules and plans for execution by provincial and city offices; and
- (c) provide policy guidance and consultative services to operating personnel.

SEC. 34. Subject to policy instructions, standards, rules, and regulations by appropriate headquarters entities and under administrative supervision, direction, and control of the Regional Director, the Child Welfare Section shall have the following functions, among others:

- (a) provide general staff assistance to the Regional Director in the administration of Child Welfare programs;
- (b) interpret child welfare programs into realistic operating schedules and plans for execution by provincial and municipal offices;
- (c) provide policy guidance and consultative services in this area to operating personnel; and
- (d) maintain liaison with other entities in the field concerned with child welfare services.

SEC. 35. Subject to policy instructions, standards, rules and regulations by appropriate headquarters entities and under administrative supervision, direction, and control of the Regional Director, the Vocational Rehabilitation Section shall have the following functions, among others:

- (a) provide general staff assistance to the Regional Director in the administration of vocational rehabilitation programs;
- (b) interpret child welfare programs into realistic operating operating schedules and plans for execution by provincial and municipal offices;

- (c) provide policy guidance and consultative services in this area to operating personnel; and
- (d) maintain liason with other entities in the field concerned with vocational rehabilitation services.

Provincial, Municipal, and City Offices

SEC. 36. The Provincial Offices shall be under the direct supervision of their respective Regional Offices. The Municipal and City Offices shall be under the supervision of their respective Provincial Offices and shall have the following functions, among others:

- (a) conduct social case studies and related follow-up activities on the various phases of welfare services;
- (b) give material assistance to eligible clients in accordance with established standards;
- (c) provide care rehabilitation to dependent, neglected, and destitute children who cannot be accommodated in welfare institutions;
- (d) provide medical social services to the physically handicapped and other eligible clients;
- (e) assist and cooperate with law enforcement authorities in locating missing children;
- (f) establish community councils for the protection of children and the prevention and treatment of juvenile delinquency;
- (g) organize juvenile control units in local police departments;
- (h) maintain liaison with prospective employers of trained physically handicapped clients;
- (i) inspect licensed private child-caring institutions to check on compliance with standards;
- (j) assist in gathering and compiling program statistics;
- (k) provide guidance and counseling services to families to prevent social maladjustments; and
- (l) assist the courts in the proper adjudication of juvenile delinquency cases through social cases studies.

REALLOCATION OF APPROPRIATIONS

SEC. 37. From the total appropriations authorized for the Administration for the period from July one, nineteen hundred and fifty-six to June thirty, nineteen hundred and fifty-seven, consisting of the following:

(a) Under Republic Act Numbered 1600		
(1) General Fund		P3,198,530.00
(2) Special Fund—Care and Maintenance of Neglected and Delinquent Children, Section 6, Act No. 3203		753,310.00
(3) Fiduciary Fund:		
(a) Philippine Charity Sweepstakes Fund....	P204,794.00	
(b) Proceeds from Sales of Poultry Products of the Welfareville Institutions	14,120.00	218,914.00
		<u>P4,170,754.00</u>

the following sums, subject to adjustment by the Commissioner of the Budget based on the unexpended balance of

appropriations available as of the effective date of these Implementing Details, are reallocated for the operation of the Administration during the period from July one, nineteen hundred and fifty-six to June thirty, nineteen hundred and fifty-seven, except where otherwise provided:

A. Funds Transferred Out

The following sums are transferred from the Administration:

(a) To the Department of Health: for items of expenditures relating to the Social Welfare Administration Clinic which is transferred pursuant to section 9 of the Plan		P8,064.00
(1) General Fund	P8,064.00	
		<hr/>
(b) To the Department of Education: for items of expenditures relating to the school facilities at Welfareville Institutions which are transferred pursuant to section 13 of the plan		78,228.00
(1) General Fund	P52,560.00	
(2) Special Fund	25,668.00	
		<hr/>
		P78,228.00
		<hr/>
Total Funds Transferred Out		P86,292.00
		<hr/>

B. Current Operating Expenditures

(1) SOCIAL WELFARE ADMINISTRATION

PROGRAM I: GENERAL ADMINISTRATION AND STAFF SERVICES

For general administration and staff services: *Provided*, That the amounts of P1,570 and P4,200 from the Special Fund and the Fiduciary Fund, respectively, shall be reimbursed to the Budget Commission for accounting services: And *Provided*, *Further*, That the amount of P500,000 from the General Fund shall be available as contribution to the Welfareville Institutions for subsistence of neglected and delinquent children

P1,089,506.00

(1) General Administration and Staff Services	P1,089,506.00
<hr/>	

PROGRAM II: PUBLIC ASSISTANCE, CHILD WELFARE, AND VOCATIONAL TRAINING

For institutional care; for rehabilitation training of the physically handicapped; and for field welfare services, including assistance and rehabilitation of the indigent, aged and infirm, destitute families, orphaned and abandoned children, physically handicapped, and negative lepers: relief for victims of disasters and for persons affected by dissident actions; and promotion of the welfare of non-Christians: *Provided*, That an amount not exceeding P20,000 shall be available for the acquisition of kitchen equipment and utensils for the Welfareville Institutions:

Provided, Further, That all positions authorized for "institutional care" shall be with subsistence and quarters: *And Provided, Finally,* That no part of this appropriation may be expended for hiring of casual labor or the financing of temporary or emergency positions

2,994,956.00

(1) Institutional Care	P916,401.00
(2) Rehabilitation Training of the Physically Handi- capped	122,100.00
(3) Field Welfare Services.....	1,956,455.00
	<u>P2,994,956.00</u>

Total for current operating expenditures
of the Social Welfare Administration....

P4,084,462.00

C. Special Provision

The total current operating expenditures of P4,084,462.00 authorized for the Social Welfare Administration in these Implementing Details shall be paid out of the following funds:

(1) General Fund	P3,137,906.00
(2) Special Fund	727,642.00
(3) Fiduciary Fund	218,914.00

Total P4,084,462.00

D. General Provisions

The "General Provisions" of Republic Act Numbered Sixteen hundred, to which reference is hereby made, shall remain in full force and effect and is made part of this section on "Reallocation of Appropriation."

STAFFING PATTERN

SEC. 38. The following Staffing Pattern by project activity is provided for the Administration for the period from the effective date of these Implementing Details to June thirty, nineteen hundred and fifty-seven, subject to the provisions of Reorganization Plans Nos. 1-A, 2-A and 3-A, except that authority is hereby granted to the Administrator subject to approval of the Commissioner of the Budget, to make necessary salary adjustments resulting from final selection of personnel to fit the positions in the Staffing Pattern, in order that no incumbent receives a reduction in salary, and further to make necessary salary adjustments resulting from new appointments, promotions, or salary increases: *Provided,* That no such adjustment may result in a salary rate which exceeds the minimum of the applicable salary range as provided in Reorganization Plan No. 2-A: *Provided, further,* That new appointments, promotions, and salary increases at present pending which would exceed the maximum rate of the appropriate salary range are cancelled until further notice: *And pro-*

vided, finally, That nothing in the said Staffing Pattern shall be construed as depriving the Government Survey and Reorganization Commission, during its existence and the Commissioner of the Budget thereafter, of its power to make changes therein, to correct mistakes, discriminations, or other injustices that may, in its opinion, have been committed in the preparation thereof:

(1) *Social Welfare Administration*

PROJECT 1: *General Administration and Staff Services*

<i>Class Title</i>	<i>Number</i>	<i>Salary Range</i>	<i>Amount</i>
OFFICE OF THE ADMINISTRATOR			
Social Welfare Administrator	1 Exempt		P12,000.00
Private Secretary	1 (40)		5,100.00
Stenographer	1 (25)		1,560.00
Clerical Aide	1 (18)		1,440.00
	4		P20,100.00
OFFICE OF THE ASSISTANT TO THE ADMINISTRATOR			
Head Social Worker II (Assistant to the Administrator)	1 (46)		P5,100.00
Stenographer	1 (25)		1,440.00
	2		P6,540.00
<i>Public Information Section</i>			
Information Editor I (Chief of Section)	1 (30)		P1,800.00
Information Writer	1 (27)		1,560.00
Clerk I	1 (23)		1,560.00
	3		P4,920.00
<i>Legal Service Section</i>			
Legal Officer II (Chief of Section)	1 (37)		P2,400.00
Stenographer	1 (25)		1,440.00
	2		P3,840.00
<i>Staff Training Section</i>			
Social Work Training Supervisor (Chief of Section)	1 (43)		P2,400.00
Training Officer	1 (36)		2,280.00
Social Work Instructor	2 (32)		4,560.00
Clerk I	1 (23)		1,440.00
	5		P10,680.00
OFFICE OF ADMINISTRATIVE SERVICES			
Administrative Officer IV (Chief of Administrative Services)	1 (50)		P5,400.00
Management Analyst II	1 (39)		5,100.00

Stenographer	1	(25)	1,440.00
Clerk I	2	(23)	3,480.00
Clerical Aide	1	(18)	1,560.00
	6		P16,980.00

BUDGET AND FINANCE DIVISION

Budget Officer II (Chief of Division)	1	(42)	P2,940.00
Clerk II	1	(25)	1,440.00
	2		P4,380.00

Budget Section

Budget Examiner II (Chief of Section)	1	(36)	P1,800.00
Clerk I	2	(23)	3,000.00
	3		P4,800.00

Fiscal Control Section

Cashier II (Chief of Section).....	1	(35)	P2,400.00
Cashier I	1	(32)	1,560.00
Clerk I	2	(23)	3,000.00
	4		P6,960.00

STATISTICAL DIVISION

Senior Statistician (Chief of Division)	1	(41)	P2,580.00
Statistician II	1	(38)	2,400.00
Social Worker	1	(28)	1,440.00
Librarian	1	(27)	1,560.00
Illustrator II	1	(27)	1,560.00
Statistical Aide	2	(25)	3,000.00
Clerk I	4	(23)	6,360.00
	11		P18,900.00

PERSONNEL AND RECORDS DIVISION

Personnel Officer II (Chief of Division)	1	(43)	P2,400.00
--	---	------	-----------

Personnel Section

Senior Personnel Aide (Chief of Section)	1	(30)	P1,800.00
Personnel Aide	3	(25)	4,560.00
Clerical Aide	1	(18)	1,440.00
	5		P7,800.00

Records Section

Records Officer I (Chief of Section)	1	(30)	P2,160.00
Clerk I	3	(23)	5,040.00
Clerical Aide	1	(18)	1,560.00
	5		P8,760.00

SOLICITATION PERMIT DIVISION

Supervising Social Worker (Chief of Division)	1	(36)	P2,160.00
Auditing Examiner I	1	(34)	1,800.00
Senior Social Worker	1	(32)	2,160.00
Stenographer	1	(25)	1,560.00
Clerk I	1	(23)	1,440.00
	5		P9,120.00

PROPERTY AND GENERAL SERVICES DIVISION

Supply Officer III (Chief of Division)	1	(43)	P4,200.00
Clerk II	1	(25)	1,560.00
	2		P5,760.00

Procurement Section

Supply Officer II (Chief of Section)	1	(37)	P2,160.00
Storekeeper II (Warehouseman)	2	(27)	3,240.00
Assistant Buyer (Canvasser).....	1	(26)	1,440.00
Clerk I (Stock Clerk)	5	(23)	7,560.00
Store Aide (Checker)	3	(18)	4,320.00
Laborer	5	(14)	7,200.00
	17		P25,920.00

General Services Section

Security Officer I (Chief of Section)	1	(32)	P2,400.00
Building Maintenance Foreman II	1	(29)	1,800.00
Senior Carpenter	1	(25)	1,440.00
Printing Teacher	1	(24-32)	1,440.00
Senior Security Guard	3	(24)	4,680.00
Automotive Mechanic II	1	(24)	1,800.00
Shop Electrician	1	(24)	1,440.00
Carpenter	3	(23)	4,320.00
Plumber	1	(23)	1,440.00
Automotive Mechanic I	1	(22)	1,440.00
Security Guard	22	(22)	31,680.00
Light Equipment Operator II.....	5	(20)	7,320.00
Typesetting Helper	1	(18)	1,440.00
Janitor	5	(14)	7,200.00
	47		P69,840.00

OFFICE OF CHILD WELFARE

Social Welfare Supervisor (Chief of Office)	1	(51)	P5,400.00
Stenographer	1	(25)	1,680.00
Clerical Aide	1	(18)	1,440.00
	3		P8,520.00

DIVISION OF CHILD WELFARE SERVICES

Head Social Worker II (Chief of Division)	1	(46)	P5,400.00
---	---	------	-----------

Clerk II	1	(25)	1,440.00
Clerical Aide	1	(18)	1,440.00
	3		P8,280.00

Probation and Parole Section

Senior Social Worker (Chief of Section)	1	(32)	P3,120.00
Social Worker (Probation Officer)	6	(28)	11,520.00
Clerk I	1	(23)	1,440.00
	8		P16,080.00

Child Aid and Placement Section

Senior Social Worker (Chief of Section)	1	(32)	P2,940.00
Social Worker	1	(28)	1,800.00
Clerk I	1	(23)	1,560.00
	3		P6,300.00

Group Care Section

Senior Social Worker (Chief of Section)	1	(32)	P1,800.00
Social Worker	1	(28)	1,800.00
Clerk I	1	(23)	1,560.00
	3		P5,160.00

DIVISION OF INSTITUTIONS

Head Social Worker II (Chief of Division)	1	(46)	P4,200.00
Senior Social Worker	1	(32)	1,800.00
Social Worker	1	(28)	1,560.00
Clerk II	1	(25)	1,440.00
Clerical Aide	1	(18)	1,440.00
	5		P10,440.00

OFFICE OF PUBLIC ASSISTANCE

Head Executive Assistant (Chief of Office)	1	(55)	P6,000.00
Senior Social Worker	1	(32)	1,560.00
Clerk II	1	(25)	1,440.00
Clerk I	2	(23)	3,000.00
	5		P12,000.00

DIVISION OF SOCIAL SERVICES

Head Social Worker II (Chief of Division)	1	(46)	P3,720.00
Social Worker	1	(28)	1,800.00
Clerk I	1	(23)	1,440.00
	3		P6,960.00

Medical Social Services Section

Senior Medical Social Worker (Chief of Section)	1	(34)	P2,580.00
---	---	------	-----------

Medical Social Worker	2	(32)	4,800.00
Clerk I	1	(23)	1,440.00
	4		P8,820.00

Family Welfare Services Section

Senior Social Worker (Chief of Section)	1	(32)	P2,160.00
Social Worker	2	(28)	3,720.00
Clerk I	1	(23)	1,800.00
	4		P7,680.00

Self-Help Project Section

Supervising Social Worker (Chief of Section)	1	(36)	P2,940.00
Senior Social Worker	1	(32)	2,280.00
Social Worker	5	(28)	9,240.00
Clerk II	1	(25)	1,440.00
Clerk I	1	(23)	1,560.00
Clerical Aide	1	(18)	1,440.00
	10		P18,900.00

Resettlement and Housing Section

Supervising Social Worker (Chief of Section)	1	(36)	P2,400.00
Senior Social Worker	1	(32)	2,280.00
Social Worker	5	(28)	7,920.00
Clerk II	1	(25)	1,440.00
Clerk I	1	(23)	1,440.00
	9		P15,480.00

DIVISION OF ASSISTANCE

Head Social Worker I (Chief of Division)	1	(43)	P3,960.00
Social Worker	1	(28)	1,560.00
Clerk II	1	(25)	1,440.00
Clerk I	1	(23)	1,440.00
	4		P8,400.00

General Assistance Section

Supervising Social Worker (Chief of Section)	1	(36)	P1,920.00
Social Worker	2	(28)	2,880.00
Clerk I	1	(23)	1,560.00
	4		P6,360.00

Special Assistance Section

Senior Social Worker (Chief of Section)	1	(32)	P2,280.00
Social Worker	1	(28)	1,560.00
Clerk I	1	(23)	1,440.00
	3		P5,280.00

Class Title	Number	Salary Range	Amount
DIVISION OF FIELD SERVICES			
Head Social Worker III (Chief of Division)	1	(49)	P5,400.00
Supervising Social Worker	1	(36)	2,400.00
Senior Social Worker	2	(32)	3,240.00
Social Worker	1	(28)	1,800.00
Clerk II	2	(25)	3,000.00
Clerical Aide	2	(18)	3,120.00
	9		P18,960.00
OFFICE OF VOCATIONAL REHABILITATION			
Social Welfare Supervisor (Chief of Office)	1	(51)	P5,400.00
Senior Social Worker	1	(32)	1,920.00
Clerk II	1	(25)	1,440.00
	3		P8,760.00
DIVISION OF REHABILITATION STANDARDS			
Head Social Worker I (Chief of Division)	1	(43)	P1,920.00
Social Work Instructor	1	(32)	1,680.00
Senior Social Worker	1	(32)	1,800.00
Social Worker	1	(28)	1,440.00
Clerk I	1	(23)	1,440.00
Clerical Aide	1	(18)	1,440.00
	6		P9,720.00
DIVISION OF REHABILITATION SERVICES			
Head Social Worker I (Chief of Division)	1	(43)	P3,120.00
Clerk I	1	(23)	1,440.00
	2		P4,560.00
<i>Services to the Non-Blind Section</i>			
Senior Social Worker (Chief of Section)	1	(32)	P1,920.00
Social Worker	1	(28)	1,680.00
Clerk I	1	(23)	1,440.00
	3		P5,040.00
<i>Services to the Blind Section</i>			
Senior Social Worker (Chief of Section)	1	(32)	P1,920.00
Social Worker	1	(28)	1,680.00
Clerical Aide	1	(18)	1,680.00
	3		P5,280.00
<i>Advisement Services Section</i>			
Guidance Counselor (Chief of Section)	1	(24-32)	P1,920.00
Social Worker	1	(28)	1,680.00

Class Title	Number	Salary Range	Amount
Clerk I	1	(23)	1,680.00
	3		P5,280.00
<i>Placement Services Section</i>			
Senior Social Worker (Chief of Section)	1	(32)	P2,760.00
Social Worker	2	(28)	3,600.00
Clerk I	2	(23)	3,000.00
	5		P9,360.00
Total Permanent Positions—Salary	229		P489,320.00

PROGRAM II: PUBLIC ASSISTANCE, CHILD WELFARE, AND VOCATIONAL REHABILITATION

Project 1: *Institutional Care*

THE WELFAREVILLE INSTITUTIONS

Head Social Worker I (Superintendent of Welfareville)	1	(43)	P2,760.00
Administrative Assistant I	1	(35)	1,800.00
Senior Social Worker	1	(32)	1,440.00
Clerk II	1	(25)	1,440.00
Clerical Aide	2	(23)	2,880.00
	6		P10,320.00

Training School for Girls

Supervising Houseparent	1	(33)	P1,440.00
Houseparent II	8	(27)	11,520.00
Institution Worker	1	(14)	1,440.00
	10		P14,400.00

Training School for Boys

Supervising Houseparent	1	(33)	P1,560.00
Houseparent II	24	(27)	34,560.00
Institution Worker	2	(14)	2,880.00
	27		P39,000.00

Medical Service

Supervising Resident Physician....	1	(46)	P2,940.00
Resident Physician	2	(42)	4,800.00
Dentist	2	(34)	5,880.00
Supervising Nurse	1	(34)	2,280.00
Senior Nurse	1	(32)	1,680.00
Pharmacist	1	(31)	2,400.00
Nurse	11	(28)	18,480.00
Nursing Attendant	13	(20)	18,720.00
Institution Worker	3	(14)	4,320.00
	35		P61,500.00

Mess Service

Food Services Supervisor I	1	(32)	P2,580.00
Assistant Food Services Supervisor I	1	(27)	2,580.00
Cook II	2	(21)	2,880.00
Kitchen Helper	1	(14)	1,440.00
Food Server	3	(14)	4,320.00
	8		P13,800.00

Nursery for Orphans and Destitute Children

Supervising Nurse Maid	1	(27)	P1,440.00
Nurse Maid	6	(17)	8,640.00
Institution Worker	2	(14)	2,880.00
	9		P12,960.00

Home for Orphans and Destitute Children

Supervising Houseparent	1	(33)	P1,560.00
Houseparent I	6	(24)	8,640.00
Nurse Maid	5	(17)	7,200.00
	12		P17,400.00

Home for Negative Children of Lepers

Supervising Houseparent	1	(33)	P2,040.00
Houseparent I	3	(24)	4,320.00
Institution Worker	2	(14)	2,880.00
	6		P9,240.00

Welfare Home for Boys

Supervising Houseparent	1	(33)	P1,440.00
Houseparent II	6	(27)	8,640.00
	7		P10,080.00

Child Guidance Clinic

Medical Specialist II	1	(49)	P4,200.00
Medical Specialist I	1	(46)	1,800.00
Guidance Psychologist	2	(34)	3,360.00
Senior Social Worker	1	(32)	P2,280.00
Social Worker	2	(28)	3,360.00
Clerk I	1	(23)	1,560.00
	8		P16,560.00

Home for Mentally Defective Children

Supervising Houseparent	1	(33)	P1,440.00
Houseparent I	8	(24)	11,520.00
Institution Worker	3	(14)	4,320.00
	12		P17,280.00

Nursery for Negative Children of Lepers

Supervising Nurse Maid	1	(27)	P1,680.00
------------------------------	---	------	-----------

Class Title	Number	Salary Range	Amount
Nurse Maid	7	(17)	10,080.00
Institution Worker	1	(14)	1,440.00
	9		P13,200.00

Welfare Home for Women and Girls

Supervising Houseparent	1	(33)	P3,120.00
Social Worker	1	(28)	1,920.00
Nurse	1	(28)	1,800.00
Houseparent I	3	(24)	5,280.00
Clerk I	1	(23)	1,440.00
Cook II	1	(21)	2,580.00
Institution Worker	2	(14)	2,880.00
	10		P19,020.00

OFFICE OF PUBLIC ASSISTANCE

Home for the Aged and Infirm

Supervising Houseparent	1	(33)	P1,800.00
Nurse	3	(28)	5,160.00
Cook II	1	(21)	1,440.00
Nursing Attendant	9	(20)	12,960.00
	14		P21,360.00

Total Permanent Positions—

Salary (Project 1) 173 P276,120.00

Project 2: *Rehabilitation Training of the Physically Handicapped*

PILOT REHABILITATION TRAINING CENTER

Head Social Worker I (Superintendent)	1	(43)	P2,400.00
Arts & Trades Instruction Supervisor II (for the workshop)	1	(38-40)	1,920.00
Guidance Psychologist	2	(34)	3,600.00
Guidance Sociologist	2	(34)	3,240.00
Medical Social Worker	1	(32)	1,920.00
Social Worker (Rehabilitation Counselor)	2	(28)	3,360.00
Houseparent II (Matron)	1	(27)	1,920.00
Clerk II	1	(25)	1,680.00
Teacher of the Deaf and Blind	2	(24-32)	3,840.00
Commercial Teacher	3	(24-32)	4,800.00
Industrial Arts Teacher	3	(24-32)	4,800.00
General Agricultural Teacher	2	(24-32)	3,360.00
Clerk I	2	(23)	3,000.00
Light Equipment Operator II	2	(20)	2,880.00
Clerical Aide	2	(18)	2,880.00

Total Permanent Positions—

Salary (Project 2) 27 P45,600.00

Project 3: *Field Welfare Services*

REGION NO. 1 (DAGUPAN)

Office of the Regional Director

Head Social Worker I (Regional Director)	1	(43)	P3,120.00
--	---	------	-----------

Senior Social Worker	1	(32)	1,440.00
Clerk II	1	(25)	1,560.00
Clerical Aide	1	(18)	1,440.00
	4		P7,560.00

Administrative Services Section

Supervising Clerk I (Chief of Sec-

Section)	1	(30)	P1,560.00
Statistical Aide	1	(25)	1,440.00
Clerk I	1	(23)	1,560.00
Laborer	1	(14)	1,440.00
	4		P6,000.00

Public Assistance Section

Senior Social Worker	1	(32)	P1,440.00
----------------------------	---	------	------------------

Child Welfare Section

Senior Social Worker	1	(32)	P1,560.00
----------------------------	---	------	------------------

Vocational Rehabilitation Section

Senior Social Worker	1	(32)	P1,920.00
----------------------------	---	------	------------------

Provincial, City and Municipal Offices

Provincial Social Welfare Worker	8	(39)	P14,940.00
Senoir Social Worker	1	(32)	1,560.00
Social Worker	63	(28)	93,600.00
Clerk I	1	(23)	1,440.00
Clerical Aide	8	(18)	11,880.00
	81		P123,420.00
	92		P141,900.00

REGION NO. 2 (TUGUEGARAO, CAGAYAN)

Office of the Regional Director

Head Social Worker I (Regional

Director)	1	(43)	P2,400.00
Senior Social Worker	1	(32)	1,440.00
Clerk II	1	(25)	1,440.00
Clerical Aide	1	(18)	1,440.00
	4		P6,720.00

Administrative Services Section

Supervising Clerk I (Chief of			
Section)	1	(30)	P1,560.00
Statistical Aide	1	(25)	1,440.00
Clerk I	1	(23)	1,440.00
Laborer	1	(14)	1,440.00
	4		P5,880.00

Public Assistance Section

Senior Social Worker	1	(32)	P1,800.00
----------------------------	---	------	------------------

Child Welfare Section

Senior Social Worker	1	(32)	P1,560.00
----------------------------	---	------	------------------

Vocational Rehabilitation Section

Senior Social Worker	1	(32)	P1,440.00
----------------------------	---	------	------------------

Provincial, City and Municipal Offices

Provincial Social Welfare Worker	4	(39)	P7,920.00
Social Worker	19	(28)	28,680.00
Clerical Aide	4	(18)	5,880.00
	27		P42,480.00
	38		P59,880.00

REGION NO. 3 (MANILA)

Office of the Regional Director

Head Social Worker I (Regional Director)	1	(43)	P2,280.00
Senior Social Worker	1	(32)	1,800.00
Clerk II	1	(25)	1,440.00
Clerical Aide	1	(18)	1,560.00
	4		P7,080.00

Administrative Services Section

Supervising Clerk I (Chief of Section)	1	(30)	P1,440.00
Statistical Aide	1	(25)	1,440.00
Clerk I	1	(23)	1,440.00
Laborer	1	(14)	1,440.00
	4		P5,760.00

Public Assistance Section

Senior Social Worker	1	(32)	P1,440.00
----------------------------	---	------	------------------

Child Welfare Section

Senior Social Worker	1	(32)	P1,440.00
----------------------------	---	------	------------------

Vocational Rehabilitation Section

Senior Social Worker	1	(32)	P1,560.00
----------------------------	---	------	------------------

Provincial, City and Municipal Offices

Provincial Social Welfare Worker	13	(39)	P24,840.00
Social Worker	94	(28)	142,860.00
Clerk I	5	(23)	7,200.00
Clerical Aide	13	(18)	18,840.00
	130		P202,980.00
	141		P220,260.00

REGION NO. 4 (NAGA)

Office of the Regional Director

Head Social Worker I (Regional Director)	1	(43)	P2,280.00
Senior Social Worker	1	(32)	1,560.00
Clerk II	1	(25)	1,560.00
Clerical Aide	1	(18)	1,440.00
	<hr/> 4		<hr/> P6,840.00

Administrative Services Section

Supervising Clerk I (Chief of Section)	1	(30)	P1,560.00
Statistical Aide	1	(25)	1,560.00
Clerk I	1	(23)	1,440.00
Laborer	1	(14)	1,440.00
	<hr/> 4		<hr/> P6,000.00

Public Assistance Section

Senior Social Worker	1	(32)	P1,440.00
----------------------------	---	------	-----------

Child Welfare Section

Senior Social Worker	1	(32)	P1,560.00
----------------------------	---	------	-----------

Vocational Rehabilitation Section

Senior Social Worker	1	(32)	P1,680.00
----------------------------	---	------	-----------

Provincial, City and Municipal Offices

Provincial Social Welfare Worker	6	(39)	P11,160.00
Social Worker	33	(28)	49,080.00
Clerical Aide	6	(18)	8,640.00
	<hr/> 45		<hr/> P68,880.00
	<hr/> 56		<hr/> P86,400.00

REGION NO. 5 (ILOILO)

Office of the Regional Director

Head Social Worker I (Regional Director)	1	(43)	P2,580.00
Senior Social Worker	1	(32)	1,440.00
Clerk II	1	(25)	1,440.00
Clerical Aide	1	(18)	1,440.00
	<hr/> 4		<hr/> P6,900.00

Administrative Services Section

Supervising Clerk I (Chief of Section)	1	(30)	P1,560.00
Statistical Aide	1	(25)	1,560.00
Clerk I	1	(23)	1,440.00
Laborer	1	(14)	1,560.00
	<hr/> 4		<hr/> P6,120.00

Public Assistance Section

Senior Social Worker	1	(32)	P1,440.00
----------------------------	---	------	-----------

Child Welfare Section

Senior Social Worker	1	(32)	P1,560.00
----------------------------	---	------	-----------

Vocational Rehabilitation Section

Senior Social Worker	1	(32)	P1,560.00
----------------------------	---	------	-----------

Provincial, City, and Municipal Offices

Provincial Social Welfare Worker	6	(39)	P11,520.00
Social Worker	40	(28)	58,800.00
Clerical Aide	6	(18)	8,880.00
	52		P79,200.00
	63		P96,780.00

REGION NO. 6 (CEBU)

Office of the Regional Director

Head Social Worker I (Regional Director)	1	(43)	P3,480.00
Senior Social Worker	1	(32)	1,800.00
Clerk II	1	(25)	1,560.00
Clerical Aide	1	(18)	1,440.00
	4		P8,280.00

Administrative Services Section

Supervising Clerk I (Chief of Section)	1	(30)	P1,560.00
Statistical Aide	1	(25)	1,440.00
Clerk I	1	(23)	1,560.00
Laborer	1	(14)	1,440.00
	4		P6,000.00

Public Assistance Section

Senior Social Worker	1	(32)	P1,440.00
----------------------------	---	------	-----------

Child Welfare Section

Senior Social Worker	1	(32)	P1,560.00
----------------------------	---	------	-----------

Vocational Rehabilitation Section

Senior Social Worker	1	(32)	P1,440.00
----------------------------	---	------	-----------

Provincial, City and Municipal Offices

Provincial Social Welfare Worker	5	(39)	P10,980.00
Social Worker	55	(28)	82,080.00
Clerical Aide	5	(18)	7,320.00
	65		P100,380.00
	76		P119,100.00

REGION NO. 7 (ZAMBOANGA)

Office of the Regional Director

Head Social Worker I (Regional

Director)	1	(43)	P3,120.00
Senior Social Worker	1	(32)	1,440.00
Clerk II	1	(25)	1,560.00
Clerical Aide	1	(18)	1,560.00
	4		P7,680.00

Administrative Services Section

Supervising Clerk I (Chief of Sec-

tion)	1	(30)	P1,560.00
Statistical Aide	1	(25)	1,440.00
Clerk I	1	(23)	1,440.00
Laborer	1	(14)	1,440.00
	4		P5,880.00

Public Assistance Section

Senior Social Worker	1	(32)	P1,440.00
----------------------------	---	------	-----------

Child Welfare Section

Senior Social Worker	1	(32)	P1,560.00
----------------------------	---	------	-----------

Vocational Rehabilitation Section

Senior Social Worker	1	(32)	P1,440.00
----------------------------	---	------	-----------

Provincial, City, and Municipal Offices

Provincial Social Welfare Worker	5	(39)	P9,900.00
Social Worker	25	(28)	37,200.00
Clerical Aide	5	(18)	7,200.00
	35		P54,300.00
	46		P72,300.00

REGION NO. 8 (DAVAO)

Office of the Regional Director

Head Social Worker I (Regional

Director)	1	(32)	P3,120.00
Senior Social Worker	1	(32)	1,560.00
Clerk II	1	(25)	1,560.00
Clerical Aide	1	(18)	1,560.00
	4		P7,800.00

Administrative Services Section

Supervising Clerk I (Chief of Sec-

tion)	1	(30)	P1,560.00
Statistical Aide	1	(25)	1,440.00
Clerk I	1	(23)	1,440.00
Laborer	1	(14)	1,440.00
	4		P5,880.00

<i>Public Assistance Section</i>		
Senior Social Worker	1 (32)	P1,560.00
<i>Child Welfare Section</i>		
Senior Social Worker	1 (32)	P1,560.00
<i>Vocational, Rehabilitation Section</i>		
Senior Social Worker	1 (32)	P1,560.00
<i>Provincial, City, and Municipal Offices</i>		
Provincial Social Welfare Worker	6 (39)	P13,020.00
Social Worker	35 (28)	58,040.00
Clerical Aide	6 (18)	8,640.00
	47	P74,700.00
Total—Region 8	58	P93,060.00
Total—Project 3	570	P889,680.00
Total—Program II	770	P1,211,400.00
GRAND TOTAL PERMANENT POSITIONS—		
SALARY (Social Welfare Administration)	999	P1,650,720.00

PERSONNEL OF THE ADMINISTRATION

SEC. 39. The personnel structure of the Administration for the period from the effective date of these Implementing Details to June thirty, nineteen hundred and fifty-seven, shall conform to the Staffing Pattern provided in these Implementing Details.

SEC. 40. Except where the law provides otherwise, all appointments to positions authorized in the Staffing Pattern shall be subject to the requirements of the civil service and other personnel laws, rules, and regulations: *Provided*, That all personnel in the present staff who meet such requirements shall be employed before consideration is given to the employment of other persons, subject to the approval of the Government Survey and Reorganization Commission and the President.

DELEGATION OF AUTHORITY

SEC. 41. Any delegation of authority required or authorized by these Implementing Details shall be in writing; shall indicate to which officer or class of officers or employees the delegation is made; shall define the extent to which each delegatee will be held responsible for results; and shall vest each delegatee with sufficient authority to enable him in discharge his assigned responsibility. Such delegations, where specifically provided by these Imple-

menting Details, shall be within the limits of the provisions of these Implementing Details: *Provided*, That nothing in this section shall be construed to prevent other delegations.

PARTIAL INVALIDITY

SEC. 42. If any provisions of these Implementing Details should be held invalid, the other provisions shall not be affected thereby.

TIMING OF ADMINISTRATIVE ACTIONS

SEC. 43. The Administrator shall direct the orderly scheduling of transfers, changes, and other transitional actions required by the Plan and by these Implementing Details within sixty days from the effective date of the Implementing Details. In the interim, each entity shall continue to perform its existing functions until such time as the Administrator orders change or cessation and each officer and employee shall continue to perform his duties and to exercise his authority until such time as the Administrator orders otherwise.

Done in the City of Manila, this 11th day of December, in the year of Our Lord, nineteen hundred and fifty-eight, and of the Independence of the Philippines, the thirteenth.

CARLOS P. GARCIA

President of the Philippines

By the President:

JUAN C. PAJO

Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER NO. 327

EXTENDING THE PROHIBITION TO SLAUGHTER
CARABAOS UP TO JUNE 30, 1959

In order to carry out effectively the provisions of Republic Act No. 11 and to conserve our work animals for agricultural purposes, I, Carlos P. Garcia, President of the Philippines, do hereby order:

1. The prohibition to slaughter carabaos under Executive Order No. 316 dated September 1, 1958, is hereby extended up to June 30, 1959.

2. Permits to slaughter carabaos may be issued by the Provincial Commander, subject to the following conditions:

- a. That the carabao is twenty (20) years old or over;
- b. That the carabao is unfit for work;
- c. That the carabao must be inspected by the Provincial Veterinarian and the Provincial Commander or their authorized representatives; and
- d. That the Provincial Veterinarian and the Provincial Commander shall make a joint certification that the carabao is 20 years old or over and unfit for work.

3. In every case where a permit to slaughter carabao is issued, the Provincial Commander shall furnish the Office of the President copies of the pertinent papers.

Done in the City of Manila, this 29th day of December, in the year of Our Lord, nineteen hundred and fifty-eight, and of the Independence of the Philippines, the thirteenth.

CARLOS P. GARCIA
President of the Philippines

By the President:

JUAN C. PAJO
Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

PROCLAMATION No. 549

REVOKING EXECUTIVE ORDER NO. 66, DATED AUGUST 10, 1909, WHICH RESERVED FOR CONSTABULARY PURPOSES A PARCEL OF LAND SITUATED IN SAN VICENTE, MUNICIPALITY OF ILAGAN, PROVINCE OF ISABELA, AND RESERVING THE SAME FOR MUNICIPAL GOVERNMENT SITE PURPOSES

Upon the recommendation of the Secretary of Agriculture and Natural Resources and pursuant to the provisions of Section 83 of Commonwealth Act No. 141, as amended, I, Carlos P. Garcia, President of the Philippines, do hereby revoke Executive Order No. 66, dated August 10, 1909, which reserved for Constabulary purposes a parcel of the public domain situated in San Vicente, municipality of Ilagan, province of Isabela, and reserve the same for municipal government site purposes, under the administration of the Municipality of Ilagan, Isabela, subject to private rights, if any there be, which land is more particularly described in the Bureau of Lands plan AP-5154, to wit:

In-5

(The Municipal Government of Ilagan, Isabela)

A parcel of land (covered by In-5 and shown on plan AP-5145, L.R.C. Record No. ———), situated in the barrio of San Vicente, municipality of Ilagan, province of Isabela. Bounded on the W., along line 1-2, by Calle Magallanes; on the S., along line 2-3, by property of the Insular Government; on the E., along line 3-4, by San Antonio Road; and on the N., along line 4-5, by property of Manuel San Jose and along line 5-1, by property of Arturo Fita. Beginning at a point marked 1 on plan, being N. 39° 08' W., 119.50 meters to B.L. Monument 2, Municipality of Ilagan, Isabela, thence S. 3° 25' W., 112.61 meters to point 2; thence N. 83° 29' E., 47.74 meters to point 3; thence N. 15° 47' E., 96.39 meters to point 4; thence N. 77° 32' W., 42.79 meters to point 5; thence N. 78° 47' W., 25.66 meters to the point of beginning; containing an area of 5,960 square meters. All points referred to are indicated on the plan and are marked on the ground as follows; point 1, by Balanguing Tree; point 2, by Bamboo; point 3, by P.L.S.; Mon., and the rest, by Old Points; bearings true; date of survey, May 17, 1909.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.

Done in the City of Manila, this 19th day of December,
in the year of Our Lord, nineteen hundred and fifty-eight,
and of the Independence of the Philippines, the thirteenth.

[SEAL]

CARLOS P. GARCIA
President of the Philippines

By the President:

JUAN C. PAJO
Executive Secretary

83041—3

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 285

MODIFYING ADMINISTRATIVE ORDER NO. 31,
DATED MARCH 31, 1947, CONCERNING FORMER
JUDGE VICENTE BAUTISTA OF THE MUNIC-
IPAL COURT OF MANILA, BY REMOVING THE
BAR TO HIS REINSTATEMENT

Under Administrative Order No. 31, dated March 31, 1947, Mr. Vicente Bautista was required to resign as municipal judge of Manila, with prejudice to reinstatement, for irregularly attending office, authorizing his clerk to impose fines in traffic violation cases, and issuing blank search warrants. Respondent has sought reconsideration of said decision. After a review of the case, I believe that he deserves consideration in view of the following circumstances: (1) there is nothing to show that he was guilty of dishonesty, (2) he had served the Government in various capacities for a long time, and (3) he has been sufficiently punished since his separation more than ten years ago.

WHEREFORE, and upon the recommendation of the Secretary of Justice, Administrative Order No. 31, dated March 31, 1947, is hereby modified by deleting from the dispositive portion thereof the phrase "with prejudice to reinstatement" so as to enable respondent to reenter the government service.

Done in the City of Manila, this 5th day of January, in the year of Our Lord, nineteen hundred and fifty-nine, and of the Independence of the Philippines, the thirteenth.

CARLOS P. GARCIA

President of the Philippines

By the President:

JUAN C. PAJO

Executive Secretary

DEPARTMENT AND BUREAU ADMINISTRATIVE ORDERS AND REGULATIONS

Executive Office

MEMORANDUM CIRCULAR No. 23

December 29, 1958

To all heads of Departments, chiefs of bureaus and offices, agencies and instrumentalities of the Government including Government-owned and/or controlled corporations;

In the interest of public service and to promote better understanding between national and local officials and thereby minimize, if not entirely avoid, frictions between said officials, the President desires that all Heads of Departments, Bureaus and Offices, Agencies and Instrumentalities of the Government, including Government-owned and/or controlled corporations, instruct their respective officials, agents and employees upon their assignment to the field, more specifically in the local govern-

ments, to pay a courtesy call on the Provincial Governor in the case of a provincial assignment, and the city or municipal mayor in the case of a city or municipal assignment upon reporting for duty and before proceeding to perform their assigned tasks, except when the performance of the duty assigned is that of a secret or confidential nature in which such local officials are involved or there is probability that the secret nature of the mission may be frustrated. The step herein suggested, it is believed, will not only promote cordial relations between the officials concerned but will also facilitate the performance by the national officials and employees of the work assigned to them in the field.

By authority of the President:

JUAN C. PAJO
Executive Secretary

Department of Finance

BUREAU OF CUSTOMS

CUSTOMS ADMINISTRATIVE ORDER No. 234

November 28, 1958

**REGULATIONS GOVERNING ENTRANCE TO
AND EXIT FROM THE CUSTOMS ZONE,
INCLUDING PIER PREMISES, SOUTH
HARBOR, MANILA.**

PARAGRAPH I. PURPOSE AND BASIS—

In order to regulate the entrance and exit of persons and vehicles in the Customs Zone, the exclusive control, direction and management of which are vested in the Bureau of Customs pursuant to Section 604 of Republic Act No. 1937 as interpreted in Opinion No. 195 of the Secretary of Justice, series of 1958 (C.L. No. 2917), the following regulations are hereby promulgated for the guidance of all concerned.

PAR. II. CUSTOMS ZONE BOUNDARIES—

The Customs Zone is bounded by the north boundary of the 22nd Street from Muelle San Francisco to Boston Street; thence the west boundary of Boston Street from the 22nd Street to the 12th Street but excluding a portion of Derham Building on Block 149 and the lot of the Manila Port Service Hiring Hall on Block 148; thence the north boundary of 12th Street from Boston Street to Chicago

Street; thence the west boundary of Chicago Street from the 12th Street to Muelle de Tacoma; thence the bulkhead line west of Muelle de Tacoma from Chicago Street to Muelle San Francisco; thence the whole waterfront from the north end of Muelle San Francisco to the north boundary of 22nd Street.

PAR. III. ADMISSION OF VEHICLES INTO THE CUSTOMS ZONE—

(a) All vehicles which are engaged in doing business in or entering regularly the Customs Zone shall carry a customs vehicle permit with the corresponding sticker which shall be pasted on the vehicles' windshield.

(b) All other vehicles which do not regularly engage in business in the Customs Zone shall be required to proceed to a specific destination on a specified errand, which must be declared to the port patrol officer on duty before permission to enter may be granted.

(c) No trucks, taxicabs, PU vehicles and other vehicles for hire shall be allowed to enter the Customs Zone, including the pier premises, for the purpose of soliciting cargo and/or passengers.

PAR. IV. ENTRY OF VEHICLES IN THE PIER PREMISES OF THE SOUTH HARBOR—

Only vehicles belonging to any of the following categories shall be admitted into the pier premises

if parking space is available, except at times of arrival or departure of passenger liners when term of Paragraph VI (d) shall apply or when special permission is granted by the Commissioner or the Collector of Customs or their authorized representatives.

(a) Cars belonging to members of Congress, the diplomatic corps and other high ranking government officials when visiting relatives or friends on arrival or departure of passenger vessels.

(b) Cars and/or trucks of steamship companies or authorized agents on official business.

(c) Cars and/or trucks or essential government services, such as the Bureau of Posts, Bureau of Quarantine, etc., on official business.

(d) Cars and/or trucks of essential steamship services, such as laundries, ship chandlers, etc., on official business.

(e) Cars and/or trucks of the arrastre contractors, stevedore companies and marine surveyors on official business.

(f) Cars and/or trucks of essential public services, such as telephone, light, etc., on official business.

(g) Consignees', brokers' and duly-contracted-for the transportations companies' trucks in possession of permits to deliver or receive cargo with corresponding truck passes. Truck numbers shall be noted on the truck passes at time of entrance.

PAR. V. TIME AND PLACE OF ENTRANCE AND EXIT OF VEHICLES IN THE CUSTOMS ZONE—

(a) *Automobiles and other passenger-carrying conveyances.*

During regular working days (Mondays through Fridays) from 7:00 a.m., to 5:00 p.m., private automobiles and passenger-carrying public conveyances may enter the Customs Zone through Gates 1, 4 and 6 and may leave the Customs Zone through Gates No. 1, 3 and 6 during said time. Before and after office hours and on Saturdays, Sundays and Holidays all vehicles shall enter or leave the Customs Zone through Gates 1 and 6 only, provided, however, that when the exigencies of the situation so demand, the Commissioner of Customs, the Collector of Customs, or their authorized representatives may allow said vehicles to enter or leave any gate.

(b) *No Vehicles, government or private, shall be allowed to enter the pier area of the South Harbor from 12:00 midnight to 5:00 a.m., except those specified below:*

1. Ambulances, fire engine trucks and police vehicles on emergencies only.
2. Meralco and Philippine Long Distance Telephone vehicles on official business therein.
3. Light or heavy equipments of the Manila Port Service or those of the operator of the bonded warehouses within the Customs Zone used inside the piers in connection with operations relative to unloading and

loading of cargoes and/or transfer of same to bonded warehouses.

4. Cargo trucks taking delivery of reefer or refrigerated cargoes and other highly perishable merchandise, or delivering export cargoes alongside vessels docked at the piers, provided, however, that special permits for the trucks are previously secured from the Commissioner or the Collector of Customs or their authorized representatives.

Vehicles belonging to the Bureau of Customs or Manila Port Service vehicles used for patrolling the customs and pier areas, are likewise barred from the piers during the hours specified in subsection (b) above, except in cases of emergency, in which event report thereof shall be made in writing at the first opportunity to Commissioner or the Collector of Customs. Patrolling inside the piers at the said time shall be conducted on foot.

(c) *Trucks:* During regular working days (Mondays through Fridays) from 7:00 a.m., to 5:00 p.m., all trucks shall enter through Gates 1, 4 and 6 only. Before 7:00 a.m., Gate 1 only shall be used. All empty and loaded trucks shall leave the Customs Zone through Gates 1, 2, 3 and 6 only. [However, when exigencies of the situation so demand, the Commissioner, the Collector of Customs or their authorized representatives may allow trucks to enter or leave any gate.

PAR. VI. INSPECTION OF VEHICLES AND OCCUPANTS—

(a) *Checking of private and public passenger cars and occupants thereof shall be done while entering and leaving the gates.* Occupants, including the driver, may be questioned as to their destination within the Zone. If they are bound for the pier premises, proof of identity may be required further at the time of entrance at the pier gates.

(b) *Inspection of Trucks and Other Cargo-carrying Vehicles.*

In-bound: All trucks and other cargo-carrying vehicles shall be checked on entrance. Each vehicle must possess a valid customs vehicle permit, together with the corresponding sticker pasted on the windshield. In addition, the driver and the helpers, the latter not to exceed four in number unless otherwise authorized by the Commissioner or the Collector of Customs or their authorized representatives, shall be in possession of the regular customs identification card pass duly countersigned by the Commissioner of Customs as provided for in Paragraph VII hereof. All trucks shall proceed to the designated parking area whether or not already in possession of delivery permits, there to await issuance of corresponding truck passes and tags for admission into the pier premises.

Outbound: All outgoing vehicles and cargoes loaded thereon shall be checked against the corresponding gate pass at the exit gates by the Customs

toms and Arrastre Contractor Gate Keeper. It shall be the duty of the port Patrol Police Officer on duty to see that the above requirements are duly complied with and that other vehicles without gate passes shall be thoroughly but reasonably searched by the above-named employees on duty.

(c) *Verification of doubtful cases:* If for any reason the port patrol police officer on duty feels in doubt about admission or exit of a particular person or vehicle he shall refer the matter to the proper higher authorities for appropriate action.

(d) *Rule upon arrival or departure of passenger liners.*

At the time of arrival or departure of passenger liners, the restrictions governing entrance of passenger vehicles into the pier premises may be waived if provided with pier passes and subject to availability of parking space and enforcement of traffic regulations.

PAR. VII. ADMISSION OF PERSONS INTO THE CUSTOMS ZONE INCLUDING THE PIER PREMISES AND THE CUSTOMS BUILDING—

All persons regularly transacting business in the Customs Zone or whose place of employment is located therein shall carry an identification card with passport size picture attached, preferably laminated, issued by the respective employer and duly countersigned by the Commissioner of Customs for purposes of ready identification on entrance and exit. All persons authorized to enter and remain within the Customs Zone or any part thereof must at all times display his identification card by pinning or attaching it to his breast. The following persons are subject to the foregoing requirements:

(a) Arrastre and bonded warehouse contractors' personnel;

(b) Government employees whose offices are within the Customs Zone;

(c) Authorized personnel of Customs Brokerage firms on official business;

(d) Authorized representatives of steamship companies or ship operators on official business;

(e) Bona-fide employees and assigned stevedores of responsible stevedoring companies on official business;

(f) Authorized representatives of ships' chandlers, ships' laundry services and marine surveyors on official business;

(g) Ships' watchmen, pilots and launch personnel;

(h) All other persons whose places of business or employment are within the Customs Zone

Laborers not assigned to work within the pier premises shall not be allowed to enter the same.

No fishing shall be allowed along the piers and ships.

Persons who do not transact business regularly within the Customs Zone but have valid reasons for entering its premises shall secure a temporary pass at the entry gates, which pass shall indicate the purpose of the visit or business and shall be surrendered at the exit gates after serving its purpose.

Mere possession of an identification card issued under these regulations does not carry with it an absolute right of the holder to enter and remain in the Customs Zone. Such card may be confiscated or cancelled for justifiable cause.

PAR. VIII. ENFORCEMENT OF THIS ORDER—

The enforcement of these regulations shall be the responsibility of the Director for Security.

PAR. IX. EFFECTIVITY AND REPEALING CLAUSE—

This Order supersedes Customs Administrative Order No. 163 dated October 9, 1952 and any other order shall take effect on January 1, 1959.

ELEUTERIO CAPAPAS
Commissioner of Customs

Approved: December 11, 1958.

JAIME HERNANDEZ
Secretary of Finance

APPOINTMENTS AND DESIGNATIONS

Ad Interim Appointments

December 1958

Bernabe M. de Guzman as Foreign Affairs Officer, Class IV, December 19.

Felicisimo Maisog as Chairman; and Felix C. Codilla, Nestorio Mortola, Felix G. Martinez, and Sergio Sanchez as Members of the Board of Assessment Appeal of Agusan, December 22.

Domiciano Valera as Member of the Board of Directors of the Abaca Corporation of the Philippines, December 22.

Roberto Villanueva as Member of the Monetary Board of the Central Bank of the Philippines, December 24.

January 1959

Maj. Gen. Manuel F. Cabal as Chief of Staff of the Armed Forces of the Philippines with the Rank of Lieutenant General, January 1.

Brig. Gen. Pelagio Cruz as Vice-Chief of Staff of the Armed Forces of the Philippines with the Rank of Major General, January 1.

Col. Dionisio S. Ojeda as Brigadier General of the Armed Forces of the Philippines, January 1.

Protacio C. Licsi as Member of the Board of Directors of the National Development Company, January 6.

Miss Aurora Navarrete as Clerk of Court of Sulu, January 8.

Designations by the President

December 1958

Mariano Yengko as Acting Chairman of the Board of Examiners for Marine Engineers, December 15.

Manuel J. Arriola and Lucidio P. Climaca as Acting Members of the Board of Examiners for Marine Engineers, December 15.

HISTORICAL PAPERS AND DOCUMENTS

MESSAGE OF PRESIDENT GARCIA ON THE 62ND DEATH ANNIVERSARY OF DR. JOSE RIZAL, DECEMBER 29, 1958

I JOIN the Filipino people in warmly remembering today our foremost national hero, Dr. Jose P. Rizal.

When the firing squad felled Dr. Rizal with a hail of bullets on Bagumbayan field on December 30, 1896, the Spanish authorities then revelled in the belief that they had closed the last chapter of the life of another Indio "traitor." Hardly had they thought that, in snuffing out the physical life of Dr. Rizal, they had given him spiritual perpetuity in the hearts of his countrymen.

Today, in the harsh impact of present international events that every so often rock man's freedom, and over a half century after his death, Dr. Rizal is writing the grand epilogue of his mortal life.

That epilogue is: that as long as man realizes that God created him to be free, so long will he resist any attempt to consign him in shackles.

Man's ceaseless fight to be free is today the world's supreme problem. Dr. Rizal might not be known far and wide, but, if we Filipinos keep guided by the noblest ideals for which he lived and died, then we can be called a solid asset of a free world at present locked in a virtual death struggle with sinister forces bent on enslaving it. Dr. Rizal himself would give us no choice but align ourselves with all peoples of our persuasion.

PRESIDENT GARCIA'S NEW YEAR'S MESSAGE ISSUED ON NEW YEAR'S EVE, DECEMBER 31, 1958

WITH the beginning of another year, time once again brings us upon the threshold of new scenes, new hopes, and new endeavors. The year just past was an eventful year and we bid it farewell with grateful retrospection while we welcome 1959 with new optimism and faith and confidence.

In this country we should, indeed, all be thankful that we have peace; that unlike many other peoples in this trying age, we are allowed to live our lives in freedom. For my part, I desire to rededicate myself to safeguarding that peace and that freedom as the imperatives in our collective effort to make prosperity flourish and last throughout the nation.

As we gather about time's new door today, there is no reason why we should not do so with happy expectation. Around us freshly lingers the memory of 1958, and its blessings upon hearth and home. To us arises the hope

that the new year will bring us new blessings from the boundless bounty of Divine Providence.

We launched a program for self-sufficiency in the basic needs of our people: food, clothing, and shelter. And in 1958, the country saw and enjoyed a nation-wide bumper crop in rice and corn, the nation's staple foods, that we can say for the first time in many years that we have achieved self-sufficiency in food. While this may not be a panacea to all our needs, this achievement which I hope will endure, is certainly a tangible fruit of our collective effort and a mark of advancement. More than itself and its timely bounties, 1958's plentiful harvests symbolize our people's capacity for determined, earnest cooperative effort on a national scale.

We also succeeded in reducing our annual importation of textiles from P300 million to P100 million; we are developing and encouraging the cotton industry wherever practicable in various regions of the country and have witnessed some progress in this respect that warrants our hope that perhaps in 1959 or in the near future, we may achieve self-sufficiency in clothing. We have also advanced considerably toward the exploitation of our rich mineral resources, especially our iron deposits, and the establishment of our integrated steel industry so that we may produce and process our own requirements in building materials, thus leading us to achieving self-sufficiency in shelter.

The past year also showed a maturing of thought and vision which has quickened for us a more wholesome national life. We exerted sincere efforts to banish ills in the government and defeatism and negative thinking as well. We strove for greater national identity and security. Two presidential visits were made abroad in an endeavor to attain goodwill and understanding between us and other peoples. I am happy to recall that both visits advanced us in such good will and understanding and promoted for us a better place among nations.

Both as a citizen among you and as your representative in government, I wish to greet everyone on this happy occasion. It is a day of beginning and anticipation. I am confident that courage and faith will remain with us and that such courage and faith will reap good rewards for all in the coming year.

May the blessings of God be with you all on this New Year's day:

PRESIDENT GARCIA'S MESSAGE ON THE OCCASION OF THE 67TH BIRTHDAY OF THE LATE PRESIDENT MANUEL ROXAS, ISSUED ON DECEMBER 31, 1958

I JOIN the friends of the late President Manuel A. Roxas in their celebration of his 67 birthday.

As a soldier, President Roxas' patriotism was beyond question. It is common knowledge that he feigned all sorts of

illnesses to thwart Japanese plans to make him collaborate with the enemy government. He was the silent symbol of resistance against the invader and helped greatly to steady our people's morale in the darkest hours.

His sincerity as Chief Executive could not be doubted. He toiled ceaselessly, oblivious of his health, to put our country in the best economic state. It was unfortunate that he did not live to see his plans materialize.

It is well that the friends of Roxas are celebrating his 67th birthday. This gesture does justice to this great man.

DECISIONS OF THE SUPREME COURT

[No. L-7271. August 30, 1957]

PHILIPPINE NATIONAL BANK, plaintiff and appellant, *vs.*
JOSE C. ZULUETA, defendant and appellee

1. BANKS AND BANKING; OBLIGATIONS AND CONTRACTS; EXCISE TAX, REPUBLIC ACT 601; OBLIGATIONS INCURRED BEFORE ITS APPROVAL.—An obligation which has been incurred before the creation of the 17% tax, under Republic Act 601, may not be validly burdened with such tax, because the law imposing it could not be deemed to have impaired obligations already existing at the time of its approval.
- ✓ 2. BILLS AND NOTES; FOREIGN BILLS OF EXCHANGE.—When a foreign bill of exchange expressed in foreign money becomes payable here, it is payable at the rate of exchange in effect on the day it should have been paid not at the rate of exchange prevailing when action therein is brought or when judgment is rendered.

APPEAL from a judgment of the Court of First Instance of Manila. Pecson, *J.*

The facts are stated in the opinion of the Court.

Natalio M. Balboa and *Ramón B. de los Reyes* for the plaintiff and appellant.

Lorenzo F. Miravite for defendant and appellee.

BENGZON, *J.*:

In the Manila court of first instance, the Philippine National Bank sued the defendant upon a letter of credit and a draft for the amount of \$14,449.15. Although willing to pay the equivalent in pesos of the draft, plus bank charges, the defendant objected to the 17% excise tax imposed by Republic Act No. 601 which the Bank tried to collect. Both documents, he contended, had been issued and had matured *before the approval* of said Act, therefore the excise tax should not be charged.

After trial, the court rendered judgment exempting defendant from the 17% excise tax; but ordered him to deliver to plaintiff the sum of ₱37,622.11 plus daily interest of ₱3.9938 on ₱29,154.55 beginning from January 9, 1953.

The plaintiff appealed, insisting on the right to collect 17% excise or exchange tax. This is the only issue between the parties now.

For a statement of the facts we may quote from plaintiff's brief. "On October 26, 1948, Defendant-Appellee applied for a commercial letter of credit with Plaintiff-Appellant, Philippine National Bank (Manila) and was granted L/C No. 36171 (Exhibit "B") on November 6, 1948, in favor of Otis Elevator Co., 260 Eleventh Avenue, New York City, U.S.A., for \$14,449.15 for the purchase of an electric passenger elevator; on May 17, 1949, and

under the said letter of credit (Exhibit "B"), Otis Elevator Co. drew a 90 day sight draft for \$14,449.15 (Exhibit "A") which draft was duly presented to and accepted by Defendant-Appellee on July 6, 1949. Said acceptance matured on October 4, 1949. Upon Defendant-Appellee's signing a 90 day trust receipt (Exhibit "C") on June 3, 1949, Plaintiff-Appellant released to Defendant-Appellee the covering documents of the shipment. In the meantime, debit advice (Exhibit "G") was received from Plaintiff-Appellant's New York Agency to the effect that it advanced or paid the draft (Exhibit "A") to Otis Elevator Co. on May 17, 1949, and charged Plaintiff-Appellant the sum of \$14,467.21 representing the face value of the draft (Exhibit "A") plus \$18.06 as $\frac{1}{8}$ of 1% commission. After the maturity date (October 4, 1949) Plaintiff-Appellant presented the draft to Defendant-Appellee for payment but the latter failed, neglected and refused to pay.

During its special session in January, 1951, Congress passed House Bill No. 1513, now Republic Act No. 601, approved on March 28, 1951, imposing a 17% special excise tax (otherwise known as foreign exchange tax) on the value in Philippine peso of foreign exchange sold by the Central Bank of the Philippines or its authorized agents. Plaintiff-appellant, as any other commercial bank in the Philippines, is an authorized agent of the Central Bank of the Philippines.

On October 17, 1952, and January 8, 1953, Plaintiff-Appellant sent bills or statements of collection (Exhibits "D" and "D-1") to Defendant-Appellee but the latter failed and refused to effect payment thereof. In those statements, the sum of ₱4,955.74 was included representing the 17% special excise tax on the peso value of the draft for US \$14,449.15 (Exhibit "A"), * * *."

Defendant's application for a letter of credit partly read as follows:

"Please arrange by cable for the establishment of an Irrevocable Letter of Credit on New York in favor of Otis Elevator Co., 260 Eleventh Avenue, New York City for account of Hon. JOSE C. ZULUETA for the sum of FOURTEEN THOUSAND FOUR HUNDRED FORTY NINE AND 15/100 (\$14,449.15) DOLLARS against drafts drawn at NINETY DAYS accompanied by shipping documents covering shipment of ONE COMPLETE ELECTRIC PASSENGER ELEVATOR * * *."

Drafts must be drawn and presented or negotiated not later than May 31, 1949.

IN CONSIDERATION THEREOF, I/we promise and agree to pay you at maturity in Philippine Currency, the equivalent of the above amount or such portion thereof as may be drawn or paid upon the faith of said credit, together with your usual charges, and I/we authorize you and your respective correspondents to pay or to accept drafts under this credit, * * *."

And the draft issued thereunder (Exhibit A) was negotiable and addressed to herein defendant as the drawee.

From plaintiff's statement of its position it is not clear whether recovery is demanded upon the letter of credit, or upon the draft Exhibit A. Plaintiff may, undoubtedly, proceed on either cause of action. (See Art. 571 Code of Commerce; Sec. 51 Negotiable Instruments Law.)

Had the plaintiff elected to recover on said letter of credit, then it would meet with the doctrines in *Araneta v. Philippine National Bank*, (L-4633, May 31, 1954). According to the majority opinion in that case, plaintiff should receive the equivalent in pesos, on May 17, 1949, of what the New York Agency paid to Otis Elevator, i. e. \$14,467.21 (plus bank fees of course). According to the minority opinion, the equivalent in pesos of the same amount of dollars on October 4, 1949. *No 17% tax on both dates.* In converting dollars into pesos, no 17% exchange tax would be imposable, since it was created only in March 1951. The plaintiff knows the case, for it was a party to it; and anticipating, in this appeal, the obvious conclusions, it insists not so much on the letter of credit, as on the bill of exchange Exhibit A¹. As stated before, such draft was drawn by Otis Elevator Co. in New York. It was addressed to defendant as drawee, who in due course accepted it. There is no question that upon accepting it, defendant became a party primarily liable²; and the holder (Philippine National Bank) may sue him, even if there had been no presentation for payment on the day of maturity. (Sec. 70 Negotiable Instruments Law.)

Admittedly, defendant's responsibility is for \$14,449.15 due in Manila on October 4, 1949 (plus bank fees). He is under obligation to deliver such amount in pesos as were the equivalent of \$14,449.15. At what rate of exchange? The rate prevailing on the day of issuance, day of acceptance, day of maturity, the day suit is filed, or that prevailing on the day judgment is rendered requiring him to pay? Herein lies the center of the controversy. Appellant will win this appeal only if the rate on the last two days above mentioned is held to be the legal rate.

The document is negotiable and is governed by the Negotiable Instruments Law. But this statute does not contain any express provision on the question. We know the draft is a foreign bill of exchange, because, drawn in New York, it is payable here. (Sec. 129 Negotiable Instruments Law.) We also know that although the

¹ Yet it is charging defendant interest on the amount beginning from May 17, 1949 i. e., from the time the New York Agency *advanced money* on the draft. If recovery were based on the draft, interest should run only from the day following its maturity i. e. on October 5, 1949.

² Sec. 62 Negotiable Instruments Law. *Union Guarantee v. Jing Kee*, 44 Phil. 533.

amount payable is expressed in dollars—not current money here—it is still negotiable, for it may be discharged with pesos of equivalent amount³. The problem arises when we try to determine the “equivalent amount”, because the rate of exchange fluctuates from day to day.

There are decisions in America to the effect that, “the rate of exchange in effect at the time the bill should have been paid” controls. (11 C.J.S. p. 264.)

Such decisions agree with the provisions of the Bills of Exchange Act of England⁴ and could be taken as enunciating the correct principle, inasmuch as our Negotiable Instruments Law, practically copied the American Uniform Negotiable Instruments Law which in turn was based largely on the Bills of Exchange Act of England of 1882. In fact we practically followed this rule in *Westminster Bank vs. K. Nassaoor*, 58 Phil. 855.

There is one decision applying the rate of exchange at the time judgment is entered. (11 C.J.S. p. 264.)⁵

This decision however seems not to have taken into account the Bills of Exchange Act above mentioned. And we have rejected its view in the *Westminster* case, *supra*. Furthermore it related to a bill expressly made *payable in* a foreign currency in which is not the case here. And the theory would probably produce undesirable effects upon commercial documents, for it would make the amount uncertain, the parties to the bill not being able to foresee the day judgment would be rendered⁶.

But, the appellant argues, the defendant had promised to pay \$14,419.15 *in dollars*; therefore he must be ordered to pay the sum in dollars at current rates *plus 17%*.

The argument rests on a wrong premise. Defendant had not promised to pay *in dollars*. He agreed to pay *the equivalent* of 14,419.15 dollars, *in Philippine currency*⁷.

But if we admit that defendant had agreed to pay in dollars, then we have to apply Republic Act No. 529 and say that his obligation “shall be discharged in Philippine currency measured at the prevailing rates of exchange at the time the obligation was incurred”.

³ Hogue v. Williamson, 22 S.W. Rep. p. 560.

⁴ 72. Rules Where Laws Conflict. * * * (4) Where a bill is drawn out of but payable in the United Kingdom and the sum payable is not expressed in the currency of the United Kingdom the amount shall, in the absence of some express stipulation, be calculated according to the rate of exchange for sight drafts at the place of payment *on the day the bill is payable*. (Italics ours.)

⁵ Liberty National Bank v. Burr, 270 Fed. 251.

⁶ Amount payable on negotiable instrument should be certain or ascertainable.

⁷ See Hogue v. Williamson, *supra*.

Now then, Zulueta's obligation having been incurred⁸ before the creation of the 17% tax, it may not be validly burdened with such tax, because the law imposing it could not be deemed to have impaired obligations already existing at the time of its approval.

The plaintiff's theory seems to be that in remitting dollars to its New York Agency, *after it collects* from defendant, it has to pay for the said excise tax⁹. The trial judge expressed the belief that such amount *had been remitted* before the enactment of Republic Act 601, because considering the practice of banks of replenishing their agencies abroad with necessary funds, he deemed it improbable that the Manila Office of the Bank—in two years—had not reimbursed its New York Agency for the amount advanced on account of the draft Exhibit A. This belief most probably accorded with reality; because as early as May 17, 1949 (Exhibit G) the New York Agency had "charged" the amount of this draft *against the account* of the Manila Office there,—which means the Agency had reimbursed itself the amount of the draft out of the funds of the Manila Office then in its possession (in New York) or coming to its possession afterwards. And it is unbelievable that in two years the Manila office never had in New York sufficient funds to effect the reimbursement.

In fact, the statement of account rendered by plaintiff to defendant on October 17, 1952, (Exhibit D) enumerated these charges:

"To your acceptance amounting to	\$14,449.15
Plus: Remitter's Commission	18.06
	<hr/>
	\$14,467.21
Convert at 1%	P29,151.43
5% int. 5/17/49-10/19/52-1251 da.	4,995.68
	<hr/>
	P34,147.11
10% comm. on \$14,449.15	2,911.51
Documentary stamps	8.70
Air Mail	2.00
17% Excise Tax on P29,151.43	4,955.74
Other chgs.	3.00"

From the above it may be deduced that the amount of the draft had been *remitted* or paid to the New York Agency *in May 1949*, for the reason that Zulueta is charged with

⁸ "Incurred" may mean either the day he accepted the draft or the day such draft matured; we need not decide. Certainly it does not mean the day of judgment.

⁹ If, as we assume in this part of the decision, the suit is on the draft, the drawee has nothing to do with such remission to New York. His duty is only to pay the holder. What the latter does with the money, is none of his business. Now, if plaintiff should point to the letter of credit which gave rise to the draft, then it will be bound by our views in the Araneta case, *supra*.

"remitter's commission" and 5% interest on the amount of the draft (and such commission) *beginning from May 17, 1949*. This necessarily implies that in accordance with Exhibit G, the New York Agency had been reimbursed of the draft's amount (or such amount was *remitted*) *on May 17, 1949*¹⁰. Now, in May 1949 no 17% exchange tax was payable upon such remittance; and the Manila office did not pay it. Therefore Zulueta should not pay it too.

In view of the foregoing the judgment will be affirmed, with costs against appellant. So ordered.

Parás, C. J., Padilla, Montemayor, and Bautista Angelo, JJ., concur.

REYES, A., J., concurring:

Plaintiff in this case seeks reimbursement in Philippine currency for the amount in dollars advanced by it through its New York agency to meet a draft drawn against defendant and accepted by the latter for a valuable consideration. Plaintiff's right to such reimbursement is not questioned. What is disputed is its pretended right to add to the amount of the draft the excise tax of 17% which plaintiff would have to pay to the Government if it were to remit now to New York the necessary amount of dollars that its agency there had paid on the draft.

I cannot bring myself to believe that it is only now that plaintiff has thought of sending dollars to New York to replace the amount advanced by its agency. As intimated in the majority opinion and in consonance with good banking practice, the necessary remittance must have been effected long ago, that is, long before the creation of the excise tax on foreign exchange in March, 1951. Plaintiff, therefore, could not have paid such tax, and not having done so it has no right to get reimbursement therefrom from defendant.

I do not think that defendant could be legally made to pay more than what plaintiff had actually advanced for him, aside from commission and other charges, on the theory that the Philippine peso has depreciated in value with respect to the American dollar. Legally, it has not. The legal rate of exchange between the two currencies is still two to one. What happened is that with the creation of the excise tax in 1951, it would now be more costly to remit dollars abroad. But why should plaintiff make that remittance now when, as already stated, it must have already done so long before the creation of the excise tax on foreign exchange?

¹⁰ Interest on the cost of remission may be collected only *after* the Manila Office had remitted.

Lastly, a debtor cannot be charged with bad faith for refusing to pay that which he should not pay.

FÉLIX, J., concurring:

The decision rendered in this case, penned by Mr. Justice César Bengzon, perfectly reflects and delivers the opinion of the majority of this Court and I subscribe to each and every statement made and argument adduced therein. This being so, it would seem that any concurring or supporting opinion is quite superfluous and I would not have taken the task of writing further in the matter were it not for the fact that in the dissenting opinion it is stated that:

"It cannot be justly contended that if a debtor had borrowed, say \$10,000, the lender should be satisfied with eight or nine thousand. Yet that is what the majority's decision actually amounts to".

The writer further says that:

"the majority opinion has the merit of giving the bank a costly lesson on the advantages of not considering political influence in the making and collecting of its loans; but I am afraid the experience will be too quickly forgotten to even palliate the sacrifice of fundamental justice to technical considerations".

I, certainly, cannot leave these statements pass unanswered.

To begin with, I might say that if any lesson has been given by the majority of this Court to the plaintiff bank, it is not in this case but in the case of *Araneta vs. The Philippine National Bank* (G. R. No. L-4633, May 31, 1954), cited in the majority decision, where the latter was a party to that case and a similar doctrine was laid down. Coming now to the bone of contention, I notice that the dissenting Justice views the matter involved in the controversy as a *loan* and submits that the question really at issue can be boiled down to the proposition of "whether it is the lender or the borrower who should bear the added cost of the depreciation of the peso in relation to the dollar".

In this connection, I might say that defendant's obligation to the plaintiff would have been settled some years ago were it not for the fact that the Bank insisted in collecting the special excise tax of 17 per cent on foreign exchange transactions imposed by Republic Act No. 601 which entered into effect on March 28, 1951, and was not yet in force at the time the obligation of the defendant matured on October 4, 1948. And even if we look at the case as a *loan* and apply to the transaction the provisions of Article 312, paragraph 1, of the Code of Commerce, cited by the dissenting Justice, yet We could not, under the facts and circumstances of the case that cannot be denied, logically arrive at the same conclusion that he has come to.

And the reason is obvious. In the first place, We have to take into account that the New York agency of Philippine National Bank and its central office in Manila are not separate and independent entities. That is why it is the Philippine National Bank (Manila office) and not the New York agency of said Bank that is the plaintiff in this case. Consequently, any payment made to plaintiffs central office in Manila for obligations that any debtor may have contracted with said New York agency is and has to be considered as a payment or settlement of said obligations, there being no need to attain this result that the plaintiff would adjust its accounts with its agency, or transmit to the latter the amounts received from the debtor.

In the second place, the obligation contracted by the defendant was not to pay \$14,419.15 *in dollars*, but the *equivalent* of \$14,419.15 dollars, in *Philippine currency*. So, when defendant's obligation matured on October 4, 1949, the defendant had to pay to the Bank *not* the sum of \$14,467.21 representing the face value of the draft Exhibit A, plus \$18.06 as 1/8 of 1 per cent commission, *but its equivalent in pesos* at the time of such maturity, and had the defendant failed to satisfy then his obligation, he could be held liable to pay in addition thereof, the corresponding interests for the period of default and nothing else. And that is precisely what defendant is willing to pay.

From the foregoing, I hope to have made clear my stand on the matter.

REYES, J. B. L., *J.*, dissenting:

As I view it, the question before this Court is whether it is the lender or the defaulting borrower who should bear the added cost of the depreciation of the peso in relation to the dollar.

When in 1949 the Philippine National Bank remitted to the Otis Elevator Co. the \$14,449.15 for the account of Zulueta, the Bank, in effect, *loaned* to Zulueta said amount on the strength of his express engagement to "pay at maturity in Philippine Currency, *the equivalent of the above amount*," which was a promise to pay such amount in Philippine pesos as could be converted into \$14,449.15. There is no question that Zulueta failed to do so, and has refused to do so up to the present. In the meantime, in 1951, the Legislature enacted Rep. Act No. 601, imposing a 17% special excise tax on foreign exchange transactions, so that thereafter one had to pay 234 pesos for every \$100, instead of ₱200.00 as heretofore. Should Zulueta be required to pay for the dollars at the new rate?

Since Zulueta's obligation is measured in terms of U.S. *dollars* that have increased in value vis-à-vis the peso, Art.

312, par. 1, of the Code of Commerce, which was the law then in force, must be read into the contract. It provides:

"If the loan consists of money, the debtor shall pay it by returning an amount equal to that received, in accordance with the legal value which the money may have *at the time of the return*, unless the kind of money in which the payment is to be made has been stipulated, in which case *the change which its value may suffer* shall be to the detriment or for the benefit of the lender." (emphasis supplied.)

The majority decision, in upholding the contention that Zulueta is not chargeable with the 17% tax, virtually authorizes just the contrary; and permits the defaulting borrower to repay an amount in pesos that, in violation of the law and his engagement, can not be converted into the same amount of dollars loaned to him. I believe it is contrary to all elemental justice and good faith to enable a borrower to return to his creditor less than the amount borrowed, specially taking into account that Zulueta, by his obdurate refusal to pay a just debt, is a debtor in bad faith who is responsible for any subsequent damages suffered by his creditor, even if due to fortuitous event.

Applicable here are the considerations in *Hawes vs. Woolcock* (26 Wis. 629, 635), quoted with approval in *Engel vs. Mariano Velasco & Co.*, 47 Phil. 115, 143:

"In *Hawes vs. Woolcock* (26 Wis., 629, 635), the court said:

'Perhaps a strict application of logical reasoning to the question would lead to the result that the premium should be estimated at the rate when the note fell due. That was when the money should have been paid, and when the default in performing the contract occurred. This conclusion would be supported by the analogy derived from the rule of damages on contracts to deliver specific articles, fixing the market price at the time when they ought to have been delivered as the criterion. This rule might sometimes be to the advantage of the holder of the note, as in the present case. In other cases, where the premium was less at the time the note became due than at the time of trial, it would be to his detriment. And in view of these uncertainties and fluctuations in the rate, upon grounds of policy as well as for its tendency to do as complete justice between the parties as is possible, we have come to the conclusion that *the true rule* in such cases is to give judgment for such an amount as will, *at the time of the judgment*, purchase the amount due on the note in the funds or currency in which it is payable. To accomplish this, of course, the premium should be estimated at the rate prevailing at the time of trial. By this rule the holder would neither gain nor lose by the fluctuations in the rate, but whenever he obtained a judgment would obtain it for a sum which would then procure him the exact amount to which he was entitled in the proper currency. This does complete justice between the parties and seems, therefore, to indicate the true extent to which the difference of exchange in such cases should affect the amount of recovery.' " (Emphasis supplied).

The crucial point is that the Bank's action is not for damages, but for specific performance of Zulueta's obligation. While payable in Philippine pesos, it was actually one to pay a definite sum in United States dollars, since he promised to pay an equivalent amount. The failure

to specify any fixed number of pesos, and the omission of any reference to any rate of exchange, is proof that the parties had in mind the restoration to the Bank of the value of the dollars it had advanced. In other words, Zulueta engaged to return to the Bank so many Philippine pesos as could be converted into \$14,449.15; and that is what the Bank now asks him to do. It can not be justly contended that if a debtor had borrowed, say, ten thousand dollars, the lender should be satisfied with eight or nine thousand. Yet that is what the majority's decision actually amounts to.

I see no point in determining the rate of dollar-peso exchange at the date of maturity or of the constitution of the obligation, since Zulueta did not engage to pay any definite amount of pesos, but so many as would be needed to make up \$14,449.15. And as Zulueta is being required to comply with a specific promise, there is no relevancy in whether or not the main office of the Bank has or has not remitted the dollars to its American agency; after all, the two are part of the same institution. Anyway, if the dollars have not been remitted, the amount that Zulueta is now sentenced to pay will not permit a remittance of the same number of dollars that the Bank advanced for his account. If they were heretofore remitted, the funds of the Bank in Manila have been diminished *pro tanto*, and they can not be replenished to their original level *in terms of dollars* unless Zulueta is required to pay the exchange tax.

Of course, the majority opinion has the merit of giving the Bank a costly lesson on the advantages of not considering political influence in the making and collecting of its loans; but I am afraid the experience will be too quickly forgotten to even palliate the sacrifice of fundamental justice to technical considerations.

For the foregoing reasons, I dissent.

Labrador, J.: I concur in the above dissenting opinion of Mr. Justice J. B. L. Reyes.

Endencia, J.: I concur with the foregoing dissenting opinion.

Concepción, J.: I concur in the foregoing dissent.

Judgment affirmed.

[No. L-9194. 25 April 1957]

Co TAO, petitioner, *vs.* THE COURT OF APPEALS and LUCITA VALLEJO, for herself and as mother and natural guardian of MANUEL Co, respondents.

1. MORAL DAMAGES; RIGHT TO RECOVER DAMAGES IN AN ACTION FOR SUPPORT.—Even if moral damages, as provided for in the new Civil Code, were not allowed at the time the right of action for support accrued in the case at bar, still the provisions of the new Code may have a retroactive effect, because such provisions do not prejudice or impair any right of the appellant vested or acquired under the old legislation (article 2252, new Civil Code). The appellant did not have a vested or acquired right not to be held liable or responsible for moral damages, either by statute or judicial pronouncement.
2. PLEADING AND PRACTICE; JUDGMENT; JUDGMENT RENDERED BY JUDGE DIFFERENT FROM ONE WHO HEARD THE CASE IS NOT ERRONEOUS.—The fact that the Judge who heard the evidence is not the one who rendered the judgment and that for that reason the latter did not have the opportunity to observe the demeanor of the witnesses during the trial but merely relied on the records of the case does not render the judgment erroneous.

REVIEW by certiorari of a decision of the Court of Appeals.

The facts are stated in the opinion of the Court.

C. F. Mata & Associates for petitioner.

Felipe B. Pagkanluñgan for respondents.

PADILLA, J.:

Appeal by certiorari under Rule 46 from a judgment of the Court of Appeals which affirms that of the Court of First Instance of Manila—

(1) Declarando que el niño Manuel Co, hijo natural de la demandante Lucita Vallejo, es hijo ilegítimo del demandado Co Tao habido con ella;

(2) Condenando al demandado Co Tao a pagar a la demandante Lucita Vallejo:

(a) La cantidad de P320, por la manutención de su hijo Manuel Co desde el mes de Mayo de 1951, en que se presentó la demanda, hasta el Diciembre de 1953, a razón de P10 mensuales; y mensualmente la cantidad de P10 para la manutención de dicho Manuel Co, a partir desde el mes de Enero de 1954 hasta que el mismo llegue a su mayoría de edad;

(b) La cantidad de P200, por las deudas yue ella habia contraído;

(c) La cantidad de P500, come daños morales;

(d) La cantidad de P200, para honorarios de abogado; y

(e) Las costas del juicio. (civil case No. 13738.)

The first, second, third, fourth and fifth errors claimed to have been committed by the Court of Appeals involve the credibility of witnesses, and in effect dispute the findings of fact of the Court of Appeals. This Court cannot review such findings in this proceedings. The Court of Appeals found—

It appears that in January, 1947, plaintiff Lucita Vallejo, a young girl of 18, native of Camiling, Tarlac, entered the services, as maid and laundress, with a monthly salary of P30.00, of one Co Bun Kim, who resided in house No. 733, Teodora Alonzo Street, Manila. There lived also defendant Co Tao *alias* José Co, a cousin and trusted employee of Co Bun Kim in a store and Chinese pharmacy under the same house. Defendant was then receiving a monthly salary of P40 and his wife and three children were then out of the Islands. Defendant Co Tao courted Lucita Vallejo and promised to marry her. And believing that he was single, Lucita accepted him and in no time they were having carnal relations in the said house almost everyday, as must be expected, she became pregnant. To avoid scandal, the defendant brought her to the house of her uncle, Cándido Vallejo, at No. 389, Prudencia street, Tondo, Manila, requesting said uncle to permit Lucita to stay in the said house until she delivered and promising to pay the rentals thereof. At 3:00 o'clock in the morning of August 13, 1948, assisted by a wife, Felisa Galang, who was summoned by Cándido Vallejo, Lucita Vallejo gave birth to a baby boy. At 8:00 o'clock, same morning Cándido accompanied Felisa to the pharmacy of Co Bun Kim to inform the defendant Co Tao of the advent of his offspring. Defendant gave Felisa the sum of P20 for the delivery and asked her what would she charge if she continued rendering service as midwife for 20 days more, to which Felisa fixed the amount of P50 for the whole service. The defendant, in the last day of her service, paid Felisa, through Lucita, the balance of P30. It further appears that after the parturition, everytime he (Co Tao) went out of the store to deposit Co Bun Kim's money in the bank, the defendant asked the driver, José Nabong, of Co Bun Kim, to pass by Cándido's house to see Lucita and his child. On October 24, 1948, the child was baptized with the name of Manuel Co, in the Catholic church of Espiritu Santo, Rizal Avenue, Manila, acting as sponsors thereof, upon the request of defendant himself, the driver José Nabong and his wife (Exhibit C). After the baptism, Lucita continued living in his uncle's house where defendant continued also visiting her and his child, sleeping with her every night, having marital life with her throughout, and providing her with money and food. In October, 1949, however, the child fell sick, and upon suggestion of defendant Co Tao, Lucita and her child went to live with her parents in Camiling. Defendant's wife and children had arrived in the meanwhile, and defendant did not write or send money to the plaintiff anymore. So plaintiff was forced to work, washing clothes and planting palay for others. Plaintiff became also ill and she had been borrowing money from friends, until she decided to come to Manila and see defendant Co Tao who refused to give her any help. Plaintiff engaged the services of a lawyer to file the present action.

Defendant Co Tao's defense followed the usual pattern of irresponsible men of passing the buck. He claims that under the service of Co Bun Kim, there were other men such as José Nabong (the driver), a certain Filipino and Chua Chiam with whom the plaintiff, Lucita Vallejo, used to go out, after her working hours; and that Lucita was also visited often times by other Filipinos who used to wait for her and with whom she also went out, and such suspicious conduct of the plaintiff was even protested to by her master, Co Bun Kim. Defendant admitted, however, that he had carnal relations with Lucita for three times only and for such acts she often approached him for money; that after the lapse of months, he found that she had already received from him the sum of P1,400.00 besides some pieces of jewelries, consisting of a ring and a watch. He alleged finally that either for Lucita's frequent

outings with several men, or for her carnal relations with him (defendant), she found herself in the family way and in June, 1948, she quit her work, and went to live with her uncle; that during the christening in the Espiritu Santo Church, he was not present; that plaintiff filed a complaint for rape in the City Fiscal's Office of Manila, but the same was dismissed for lack of evidence.

Upon the petition of the defendant, the trial court ordered the experts of the National Bureau of Investigation (NBI) to test the blood of the defendant Co Tao and the child Manuel Co, in order to determine whether the former could be the father of the latter. On October 18, 1951, the NBI expert rendered a report of the analysis made, with the following findings: "From their blood groups and types, the defendant, Co Tao, is a possible father of the child" (Exhibit B).

In upholding the cause for the plaintiff-appellee, the trial court declared that the minor Manuel Co is the illegitimate child of the defendant Co Tao, and gave much weight to the testimony of José E. Obando, Chemist of the NBI and awarded the damages and attorney's fees mentioned heretofore. After a careful survey of the evidence of record, We hold that the judgment appealed from should be sustained. As far as credibility of the witnesses is concerned, We find no reason at all for disturbing the findings of the trial court to the effect that the testimony of the plaintiff-appellee and her witnesses deserves more credence than that of the defendant-appellant. The following disquisitions of the trial court are fully supported by the facts of record:

"No solo el informe del experto de la NBI convence al Juzgado que el demandado Co Tao es el padre del niño Manuel Co, hijo de Lucita Vallejo sino además la misma conducta observada por dicho demandado y los actos ejecutados por el mismo antes, durante y después del alumbramiento de Lucita, demuestran a todas luces que el mismo demandado estaba convencido que el hijo que Lucita Vallejo trajo el mundo era suyo, fruto de vida marital que el había llevado con ella. Cuando Lucita entró servicio de Co Bun Kim, ella no contaba mas que unos 18 años de edad, y como era una campesina que nació y creció en la sementera, era humilde y tímida por naturaleza. A esa edad y con tal caracter, mas su estado de simple criada, Lucita era una facil presa del demandado, un hombre ducho, y se puede decir, experto en lances amorosos, pues ya tenía entonces 39 años encima, mas de doble de la edad de Lucita, sobre quien ejercía cierto grado de influencia moral, por ser el primo y empleado de confianza del amo de aquella. Este hecho, unido a la circunstancia de que la esposa e hijos del demandado se encontraban en China a la sazón, circunstancia completamente vedada a Lucita, reavivó los planos de conquista de demandado y precipitó la caída de Lucita. La solicitud con que Co Tao demostró al pedir a Cándido Vallejo, a quien él llamaba entonces tío, que permitiera a Lucita trasladarse a su casa, pagando él los alquileres de la misma, por ser dicha casa mas fresca que la de Co Bun Kim; el hecho de haber el mismo Co Tao pagado los servicios de la comadrona que asistió a Lucita en el parto y atendió el ciudad de la misma y de su hijo por cierto período; el hecho de haber el mismo Co Tao solicitado a José Nabong y a su esposa para ser los padrinos de bautismo del hijo de Lucita y a quienes el llegó a llamar compadres; el hecho de haber el mismo demandado estado sosteniendo y sufragando los gastos de subsistencia y alojamiento de Lucita y de su hijo durante la estancia de estos en la casa de Cándido; el hecho de haber el mismo demandado instado a Lucita que tomara vacación en Camiling cuando su

hijo se cayó enfermo en dicha casa de Cándido; el hecho admitido por el mismo demandado, de haber él, por las tres únicas veces en que el gozó de aquella mujer el primer de su juventud, dado a ella mas de P1,400, mas las joyas y prendas que había regalado, a saber: una cama de P70 y una lámpara de P25; todos estos hechos demuestran que el mismo demandado creía que la mujer humilde y tímida que había caído en sus brazos en momentos de debilidad, valía algo más que lo que vale una mujer impúdica que vende su cariño, su cuerpo y alma al primero que se presente.

La conclusión, por tanto, del Juzgado es que cuando el demandado Co Tao se unió maritalmente con Lucita Vallejo, ésta era una joven soltera y doncella, y, como fruto de aquellas relaciones, nació un niño que fué bautizado con el nombre de Manuel Co, que es hijo ilegítimo de Co Tao, por estar éste casado con otra mujer, cuando aquél fué concebido por su madre."

The appellant alleges that the plaintiff had been having carnal knowledge with him for 3 times, by selling herself; that she had been outing with different men, mentioning even his *compadre* José Nabong, among them; that Manuel Co must have been another's child because the expert of the NBI was only able to say that he (appellant) is a "possible father" of the child; that he could not have been his father, because everytime he had carnal act with the plaintiff, he used a strong french umbrella; and that the plaintiff had even accused him with rape at the fiscal's office but the complaint was dismissed;—thereby concluding that the idea of rape is incompatible with the concept of love. We find these allegations to be flimsy and shallow subterfuges of an irresponsible father. For obvious reasons, the NBI expert cannot give assurance that the appellant was the father of the child; he can only give his opinion that he is a "possible father". This possibility, coupled with the other facts and circumstances brought out during the trial, tends to definitely establish that appellant Co Tao is the father of the child Manuel. While it is admitted that the complaint for rape filed by the appellee was dismissed by the Fiscal, this fact alone should not deprive the appellee of the right which she seeks to be protected in the instant case. With the attitude of the appellant who, after satiating his lustful desires and begetting a child from her, and after abandoning them completely, the appellee must have become desperate and went to a lawyer who tried to enlist the aid of the Fiscal's Office. This notwithstanding, as a whole, the story given by the plaintiff-appellee and her witnesses is deserving of credence and belief.

The fact that the Judge who heard the evidence is not the one who rendered the judgment and that for that reason the latter did not have the opportunity to observe the demeanor of the witnesses during the trial but merely relied on the records of the case does not render the judgment erroneous.

The sixth error assigned raises a question of law. Petitioner contends that as the acts alleged in the complaint filed on 2 May 1951 took place in 1947 and 1948 and the new Civil Code took effect on 30 August 1950, article 2217 thereof, which provides for moral damages, should not have been applied retroactively. The Court of Appeals held—

* * * The right of action for support as embodied in Article 298 of the new Civil Code accrues or becomes demandable from the time the person who has a right to receive the same needs it for maintenance, but it shall not be paid except from the date it is extra-judicially demanded. In the case at bar, therefore, the action for support accrued from the filing of the complaint, which was May 2, 1951, long after the new Civil Code was in force and effect. Even granting for the purpose of argument that the moral damages as contemplated by the new Civil Code, did not exist at the time the action accrued in this case, still We believe and so hold, that these provisions of the said Code may have a retroactive effect, because such provisions do not prejudice or impair any vested or acquired right of the appellant in accordance with the old legislation (Art. 2252, New Civil Code). Moreover, "if a right should be declared for the first time in this Code, it shall be effective at once, even though the act or event which gives rise thereto may have been done or may have occurred under the prior legislation, provided said new right does not impair or prejudice any vested or acquired right, of the same origin" (Art. 2253, New Civil Code).¹ Evidently, appellant did not have a vested right or acquired right not to be held liable or responsible for moral damages, either by judicial pronouncements or by provision of law. By the same token, therefore, defendant-appellant is also liable to plaintiff-appellee for attorney's fees, under paragraphs (1), (2), (5), (6) and (11), Article 2208 of the New Civil Code. The damages fixed by the trial court are reasonable and conscionable.

The judgment under review is affirmed, with costs against the petitioner.

Bengzon, Montemayor, Reyes, A., Bautista Angelo, Labrador, Concepción, Reyes, J. B. L., Endencia, and Félix, JJ., concur.

Decision affirmed.

¹ *Ayson vs. Arambulo*, G. R. Nos. L-6501 and L-6599, 31 May 1955; *Velayo vs. Shell Co. of the Phil. Islands*, G. R. No. L-7817, 31 October 1956.

[No. L-10448. August 30, 1957]

IN THE MATTER OF A PETITION FOR DECLARATORY JUDGMENT REGARDING THE VALIDITY OF MUNICIPAL ORDINANCE No. 3659 OF THE CITY OF MANILA. PHYSICAL THERAPY ORGANIZATION OF THE PHILIPPINES, INC., petitioner, *vs.* THE MUNICIPAL BOARD OF THE CITY OF MANILA and ARSENIO H. LACSON, as Mayor of the City of Manila, respondents.

1. MUNICIPAL CORPORATION; PURPOSE OF ORDINANCE No. 3659 CITY OF MANILA; NOT TO REGULATE PRACTICE OF MASSAGE BUT TO PREVENT IMMORALITY AND PROSTITUTION.—The purpose of Ordinance No. 3659 promulgated by the Municipal Board of the City of Manila is not to regulate the practice of licensed and qualified massagists of therapeutic massage in the Philippines. The end sought to be attained is to prevent the commission of immorality and the practice of prostitution in an establishment masquerading as a massage clinic where the operators thereof offer to massage or manipulate superficial parts of the bodies of customers for hygienic and aesthetic purposes. What the Ordinance tries to avoid is that the massage clinic ran by a masseur or *massagista* may be used as cover for the running or maintaining a house of prostitution.
2. *Id.*; AUTHORITY OF CITY BOARD TO ENACT ORDINANCE.—Section 18 of the New Charter of the City of Manila, Republic Act No. 409, gives legislative powers to the Municipal Board to enact all ordinances it may deem necessary and proper for the promotion of the morality, peace, good order, comfort, convenience and general welfare of the City and its inhabitants. This is generally referred to as the General Welfare Clause, a delegation in statutory form of the police powers under which municipal corporations are authorized to enact ordinances to provide for the health and safety, and promote the morality, peace and general Welfare of its inhabitants.

ORIGINAL ACTION in the Supreme Court. Preliminary injunction.

The facts are stated in the opinion of the Court.

Mariano M. de Joya for the petitioner and appellant.

City Fiscal Eugenio Angeles and *Assistant Fiscal Arsenio Nañawa* for the respondents and appellees.

MONTEMAYOR, J.:

The petitioner-appellant, an association of registered massagists and licensed operators of massage clinics in the City of Manila and other parts of the country, filed an action in the Court of First Instance of Manila for declaratory judgment regarding the validity of Municipal Ordinance No. 3659, promulgated by the Municipal Board and approved by the City Mayor. To stop the City from enforcing said ordinance, the petitioner secured an injunction upon filing of a bond in the sum of ₱1,000. A hearing was held, but the parties without introducing any evidence submitted the case for decision on the pleadings, although they submitted written memoranda. Thereafter, the trial

court dismissed the petition and later dissolved the writ of injunction previously issued.

The petitioner appealed said order of dismissal directly to this Court. In support of its appeal, petitioner-appellant contends among other things that the trial court erred in holding that the Ordinance in question has not restricted the practice of massotherapy in massage clinics to hygienic and aesthetic massage, that the Ordinance is valid as it does not regulate the practice of massage, that the Municipal Board of Manila has the power to enact the Ordinance in question by virtue of Section 18, Subsection (kk), Republic Act 409, and that the permit fee of ₱100 is moderate and not unreasonable. Inasmuch as the appellant assails and discusses certain provisions regarding the ordinance in question, and it is necessary to pass upon the same, for purposes of ready reference, we are reproducing said ordinance in *toto*:

ORDINANCE No. 3659

AN ORDINANCE REGULATING THE OPERATION OF MASSAGE CLINICS IN THE CITY OF MANILA AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF.

Be it ordained by the Municipal Board of the City of Manila, that:

SECTION 1. *Definition.*—For the purpose of this Ordinance the following words and phrases shall be taken in the sense hereinbelow indicated:

- (a) Massage clinic shall include any place or establishment used in the practice of hygienic and aesthetic massage;
- (b) Hygienic and aesthetic massage shall include any system of manipulation or treatment of the superficial parts of the human body for hygienic and aesthetic purposes by rubbing, stroking, kneading, or tapping with the hand or an instrument;
- (c) Massagist shall include any person who shall have passed the required examination and shall have been issued a massagist certificate by the Committee of Examiners for Massagist, or by the Director of Health or his authorized representative;
- (d) Attendant or helper shall include any person employed by a duly qualified massagist in any massage clinic to assist the latter in the practice of hygienic and aesthetic massage;
- (e) Operator shall include the owner, manager, administrator, or any other person who operates or is responsible for the operation of a massage clinic.

SEC. 2. *Permit Fees.*—No person shall engage in the operation of a massage clinic or in the occupation of attendant or helper therein without first having obtained a permit therefor from the Mayor. For every permit granted under the provisions of this Ordinance, there shall be paid to the City Treasurer the following annual fees:

- (a) Operator of a massage clinic ₱100.00
- (b) Attendant or helper in massage clinic 5.00

Said permit, which shall be renewed every year, may be revoked by the Mayor at any time for violation of this Ordinance.

SEC. 3. *Building requirement.*—(a) In each massage clinic, there shall be separate rooms for the male and female customers. Rooms where massage operations are performed shall be provided with sliding curtains only instead of swinging doors. The clinic shall be properly ventilated, well lighted and maintained under sanitary con-

ditions at all times while the establishment is open for business and shall be provided with the necessary toilet and washing facilities.

(b) In every clinic there shall be no private rooms or separated compartment except those assigned for toilet, lavatories, dressing room, office or kitchen.

(c) Every massage clinic shall be provided with only one entrance and it shall have no direct or indirect communication whatsoever with any dwelling place, house or building.

SEC. 4. *Regulations for the operation of massage clinics.*—(a) It shall be unlawful for any operator, massagist, attendant or helper to use, or allow the use of, a massage clinic as a place of assignation or permit the commission therein of any indecent or immoral act. Massage clinics shall be used only for hygienic and aesthetic massage.

(b) Massage clinics shall open at eight o'clock a.m. and shall closed at eleven o'clock p.m.

(c) While engaged in the actual performance of their duties, massagists, attendants and helpers in a massage clinic shall be as properly and sufficiently clad as to avoid suspicion of intent to commit an indecent or immoral act;

(d) Attendants or helpers may render service to any individual customer only for hygienic and aesthetic purposes under the order, direction, supervision, control and responsibility of a qualified massagist.

SEC. 5. *Qualifications.*—No person who has previously been convicted by final judgment of competent court of any violation of the provisions of paragraphs 3 and 5 of Article 202 and Articles 335, 336, 340 and 342 of the Revised Penal Code, or sections 819 of the City of Manila, or who is suffering from any venereal or communicable disease shall engage in the occupation of massagist, attendant or helper in any massage clinic. Applicants, for Mayor's permit shall attach to their application a police clearance and health certificate duly issued by the City Health Officers as well as a massagist certificate duly issued by the Committee or Examiners for Massagists or by the Director of Health or his authorized representatives, in case of massagist.

SEC. 6. *Duty of operator of massage clinic.*—No operator of massage clinic shall allow such clinic to operate without a duly qualified massagist nor allow any man or woman to act as massagist, attendant or helper therein without the Mayor's permit provided for in the preceding sections. He shall submit whenever required by the Mayor or his authorized representative the persons acting as massagists, attendants or helpers in his clinic. He shall place the massage clinic open to inspection at all times by the police, health officers, and other law-enforcement agencies of the government, shall be held liable for anything which may happen within the premises of the massage clinic.

SEC. 7. *Penalty.*—Any person violating any of the provisions of this Ordinance shall upon conviction, be punished by a fine of not less than fifty pesos nor more than two hundred pesos or by imprisonment for not less than six days nor more than six months, or both such fine and imprisonment, at the discretion of the court.

SEC. 8. *Repealing Clause.*—All ordinances or parts of ordinances, which are inconsistent herewith, are hereby repealed.

SEC. 9. *Effectivity.*—This Ordinance shall take effect upon its approval.

Enacted, August 27, 1954.

Approved, September 7, 1954.

The main contention of the appellant in its appeal and the principal ground of its petition for declaratory judg-

ment is that the City of Manila is without authority to regulate the operation of massagists and the operation of massage clinics within its jurisdiction; that whereas under the Old City Charter, particularly, section 2444(e) of the Revised Administrative Code, the Municipal Board was expressly granted the power to regulate and fix the license fee for the occupation of massagists, under the New Charter of Manila, Republic Act 409, said power has been withdrawn or omitted and that now the Director of Health, pursuant to authority conferred by section 938 of the Revised Administrative Code and Executive Order No. 317, series of 1941, as amended by Executive Order No. 392, series, 1951, is the one who exercises supervision over the practice of massage and over massage clinics in the Philippines; that the Director of Health has issued Administrative Order No. 10, dated May 5, 1953, prescribing "rules and regulations governing the examination for admission to the practice of massage, and the operation of massage clinics, offices, or establishments in the Philippines", which order was approved by the Secretary of Health and duly published in the Official Gazette; that section 1 (a) of Ordinance No. 3659 has restricted the practice of massage to only hygienic and aesthetic massage and prohibits or does not allow qualified massagists to practice therapeutic massage in their massage clinics. Appellant also contends that the license fee of ₱100 for operator in section 2 of the Ordinance is unreasonable, nay, unconscionable.

If we can ascertain the intention of the Manila Municipal Board in promulgating the Ordinance in question, much of the objection of appellant to its legality may be solved. It would appear to us that the purpose of the Ordinance is not to regulate the practice of massage, much less to restrict the practice of licensed and qualified massagists of therapeutic massage in the Philippines. The end sought to be attained in the Ordinance is to prevent the commission of immorality and the practice of prostitution in an establishment masquerading as a massage clinic where the operators thereof offer to massage or manipulate superficial parts of the bodies of customers for hygienic and aesthetic purposes. This intention can readily be understood by the building requirements in section 3 of the Ordinance, requiring that there be separate rooms for male and female customers; that instead of said rooms being separated by permanent partitions and swinging doors, there should only be sliding curtains between them; that there should be "no private rooms or separated compartments, except those assigned for toilet, lavatories, dressing room, office or kitchen"; that every massage clinic should be provided with only one entrance and shall have no direct or indirect communication whatsoever with any

dwelling place, house or building; and that no operator, massagist, attendant or helper will be allowed "to use or allow the use of a massage clinic as a place of assignation or permit the commission therein of any immoral or indecent act", and in fixing the operating hours of such clinic between 8:00 a.m. and 11:00 p.m. This intention of the Ordinance was correctly ascertained by Judge Hermógenes Concepción, presiding in the trial court, in his order of dismissal where he said: "What the Ordinance tries to avoid is that the massage clinic run by an operator who may not be a masseur or *massagista* may be used as cover for the running or maintaining a house of prostitution."

Ordinance No. 3659, particularly, sections 1 to 4, should be considered as limited to massage clinics used in the practice of hygienic and aesthetic massage. We do not believe that the Municipal Board of the City of Manila and the Mayor wanted or intended to regulate the practice of massage in general or restrict the same to hygienic and aesthetic massage only.

As to the authority of the City Board to enact the Ordinance in question, the City Fiscal, in representation of the appellees, calls our attention to Section 18 of the New Charter of the City of Manila, Republic Act No. 409; which gives legislative powers to the Municipal Board to enact all ordinances it may deem necessary and proper for the promotion of the morality, peace, good order, comfort, convenience and general welfare of the City and its inhabitants. This is generally referred to as the General Welfare Clause, a delegation in statutory form of the police power, under which municipal corporations are authorized to enact ordinances to provide for the health and safety, and promote the morality, peace and general welfare of its inhabitants. We agree with the City Fiscal.

As regards the permit fee of ₱100, it will be seen that said fee is made payable not by the masseur or massagists, but by the operator of a massage clinic who may not be a massagist himself. Compared to permit fees required in other operations, ₱100 may appear to be too large and rather unreasonable. However, much discretion is given to municipal corporations in determining the amount of said fee without considering it as a tax for revenue purposes:

"The amount of the fee or charge is properly considered in determining whether it is a tax or an exercise of the police power. The amount may be so large as to itself show that the purpose was to raise revenue and not to regulate, but in regard to this matter there is a marked distinction between license fees imposed upon useful and beneficial occupations which the sovereign wishes to regulate but not restrict, and those which are *inimical and dangerous to public health, morals or safety*. In the latter case the fee may be

very large without necessarily being a tax." (Cooley on Taxation, Vol. IV, pp. 3516-17; italics supplied.)

Evidently, the Manila Municipal Board considered the practice of hygienic and aesthetic massage not as a useful and beneficial occupation which will promote and is conducive to public morals, and consequently, imposed the said permit fee for its regulation.

In conclusion, we find and hold that the Ordinance in question as we interpret it and as intended by the appellee is valid. We deem it unnecessary to discuss and pass upon the other points raised in the appeal. The order appealed from is hereby affirmed. No costs.

Parás, C. J., Bengzon, Padilla, Reyes, A., Bautista Angelo, Labrador, Concepción, Reyes, J. B. L., Endencia, and Félix, JJ., concur.

Order affirmed.

[No. L-10724. April 21, 1958]

THE PEOPLE OF THE PHILIPPINES, plaintiff and appellant,
vs. MELQUIADES RABA, ET AL., defendants. CLE-
MENTE TALANTOR, defendant and appellee.

BAIL; MOTION FOR REDUCTION; NOTICE TO FISCAL IS NECESSARY.—

The requirement in civil cases that movant shall serve notice of his motion on all parties concerned at least three days before the hearing thereof (section 4, Rule 26) is more imperative in a criminal case where a person is accused of a capital offense, for in such a case admission to bail is a matter of discretion which can only be exercised after the fiscal has been heard regarding the nature of the evidence he has in his possession. Thus, it is provided that "when admission to bail is a matter of discretion the court must require that reasonable notice of the hearing of the application for bail be given to the fiscal" (section 8, Rule 110), and such notice is necessary because "the burden of showing that evidence of guilt is strong is on the prosecution" (section 7, Rule 110).

APPEAL from orders of the Court of First Instance of Antique. Nietes, J.

The facts are stated in the opinion of the Court.

Solicitor General Ambrosio Padilla and Solicitor Melitón G. Solimán for the plaintiff and appellant.

M. F. Zamora, Eduardo S. Dayol and Serafín L. Abogado for defendant and appellee.

BAUTISTA ANGELO, J.:

Clemente Talantor and Melquiades Raba were charged with murder before the Court of First Instance of Antique and the bail for each was fixed by the court at P30,000 as recommended by the provincial fiscal.

On April 26, 1956, after the arraignment of the accused at which both pleaded not guilty to the charge, Talantor filed with the court an urgent motion praying that the amount of the bond fixed for his provisional liberty be reduced from P30,000 to P14,000 in order to enable him to go on bail. While the motion setting the hearing thereof in the morning of the same date contains a notification to the provincial fiscal, however, the latter was actually notified at 9:40 o'clock in the morning of the same day. Despite this lack of due notice, the court promptly granted the motion for the reduction of bail one hour later.

On April 28, 1956, the provincial fiscal presented a motion for reconsideration of the order granting the reduction of the bail to P14,000 on the ground that it is irregular because no proper notice of the hearing of the motion for such reduction was given to him as required by the rule to enable him to prove that there exists strong evidence which would warrant the denial of the motion. The motion was denied, hence this appeal.

There is merit in this appeal. The Rules of Court make it a duty of a movant to serve notice of his motion on all parties concerned at least three days before the hearing thereof (section 4, Rule 26). This requirement is more imperative in a criminal case where a person is accused of a capital offense for in such a case admission to bail is a matter of discretion which can only be exercised after the fiscal has been heard regarding the nature of the evidence he has in his possession. Thus, it is provided that "When admission to bail is a matter of discretion the court must require that reasonable notice of the hearing of the application for bail be given to the fiscal" (section 8, Rule 110), and such notice is necessary because "the burden of showing that evidence of guilt is strong is on the prosecution" (section 7, Rule 110). Here Talantor is charged with a capital offense and while the fiscal fixed a bail of ₱30,000 for his provisional liberty, its further reduction could not be granted without hearing him because the evidence in his possession may not warrant it.

It has been held that "The determination of whether or not the evidence of guilt is strong is a matter of judicial discretion. This discretion, by the very nature of things, may rightly be exercised *only after the evidence is submitted to the court at the hearing*. Since the discretion is directed to the weight of evidence and since evidence cannot properly be weighed if not duly exhibited or produced before the court (*Ramos vs. Ramos*, 45 Phil., 362), it is obvious that a proper exercise of judicial discretion requires that the evidence of guilt be submitted to the court, the petitioner having the right of cross-examination and to introduce his own evidence in rebuttal." (*Ocampo vs. Bernabe*, 77 Phil., 55, 56; *Italics supplied*.)

Considering that Talantor did not serve notice of his motion to reduce bail on the provincial fiscal at least three days before the hearing thereof and the court failed to require that a reasonable notice thereof be given to said fiscal, it is evident that the court acted improperly in reducing the bail without giving the fiscal an opportunity to be heard.

We wish however to state that the remedy the fiscal should have availed of is certiorari and not appeal considering that the orders herein involved are interlocutory in nature (Rule 41, Section 2).

The orders of April 26, 1956 reducing the bond of Talantor to ₱14,000, as well as that approving the bail bond as thus reduced, are hereby set aside.

Bengzon, Montemayor, Reyes, A., Labrador, Concepción, Reyes, J. B. L., Endencia, and Félix, JJ., concur.

Parás, C. J., concurs in the result.

Orders set aside.

DECISIONS OF THE COURT OF APPEALS

[No. 15084-R. July 24, 1958]

PEDRO MONTERO and FELICIDAD MONTERO, plaintiffs and appellees, *vs.* **DELGADO BROTHERS, INC.**, defendant and appellant.

1. **COMMON CARRIERS; LOSS OF GOODS THROUGH FORCE MAJEURE; LIABILITY OF COMMON CARRIER OF DAMAGES.**—Common carriers, as a general rule, are not responsible for those events which could not be foreseen or which, although foreseen, were inevitable, such as the loss, destruction, or deterioration of the goods when the same is due to flood, storm, earthquake, lightning, or other natural disaster or calamity. Articles 1174 and 1732, New Civil Code. To be entitled, however, to the benefits of this doctrine, the common carrier should be free from negligence or misconduct by which that damage or loss may have been occasioned, and the natural disaster or calamity must have been the proximate and only cause of the loss. Articles 1739 and 1740, new Civil Code; *Limpangco Sons vs. Yangco*, 34 Phil. 597; *G. Martini, Ltd. vs. Macondray and Co.*, 39 Phil. 934.
2. **ID.; ID.; ID.; PROXIMATE AND REMOTE CAUSES; CONTRIBUTORY NEGLIGENCE.**—Mere delay to transport the goods, or a refusal to transport them notwithstanding a previous agreement for the purpose, does not necessarily render the common carrier liable for damages if the goods get loss by an act of God. It is necessary that it be established that the common carrier was guilty of a willful or negligent act, and that between this willful or negligent act and the act of God no negligence on the part of the shipper intervened. If between the delay or refusal of the carrier to transport the goods and the loss of those goods due to an act of God there intervened the shipper's negligence, thus causing a break in the chain of causation between the act of God which caused their loss and the common carrier's fault, the act of God is the proximate cause of the loss and the carrier's delay or refusal to transport the goods, merely the remote cause. In such cases, the shipper is not even entitled to set up the claim of contributory negligence (38 Am. Jur. 735-736).

APPEAL from a judgment of the Court of First Instance of Samar. *Benitez, J.*

The facts are stated in the opinion of the Court.

Paredes, Balcoff & Poblador and *Leocadio de Asis*, for defendant and appellant.

Mateo Canonoy, for plaintiffs and appellees.

NATIVIDAD, J.:

This is an action for the recovery of the sum of ₱15,652.00, alleged to represent the damages suffered by the plaintiffs due to the violation by the defendant of the terms of a certain contract for the transportation of timber pilings from the municipality of Balangiga, Samar, to the City of Manila. The defendant resists

the action, on the ground that the loss suffered by the plaintiffs, if any, was due to fortuitous event or force majeure, and, consequently, it is not liable therefor, and, in counterclaim, asks for judgment in the sum of ₱12,000.00, alleged to represent damage to its reputation, attorney's fees, and expenses of litigation. After trial, the lower court rendered judgment, ordering the defendant to pay to the plaintiffs the sum of ₱13,852.64 as damages, with legal interest thereon from the date of the filing of this action until the amount is fully paid, with costs. From this judgment, the defendant appealed.

It appears that plaintiffs, Pedro Montero and Felicidad R. Montero, husband and wife, were forest concessionaires in Balangiga, Samar, and that the defendant was a domestic corporation with principal offices in the City of Manila, engaged, among other activities, in the operation of tugboats, lighters and barges for the transportation by sea of cargo to and from different places in the Philippines. In the later part of October 1952, Pedro Montero went to the office of the defendant in the City of Manila to engage the service of the latter for the transportation of a certain number of timber pilings he had in Balangiga to the yard of Atlantic Gulf and Pacific Co. in the City of Manila. After a series of conferences between Pedro Montero and Jose C. Delgado, manager of the defendant's lighterage and stevedoring department, the latter proposed to the former a contract of the following tenor:

24 October 1952

Dr. Pedro Montero
220 Laong Laan
Sampaloc, Manila
Gentlemen:

"In connection with the transportation of your cargo of approximately 200 pieces of pilings from Balangiga, Samar, to Manila through our lighter, we have the pleasure to submit the following proposal for your consideration:

"1. Hauling of your shipment of pilings from Balangiga, Samar, to Manila:

"Per piece of 35' to 40'	₱12.00
"Per piece of 40' to 50'	₱16.00

"2. We shall make available for your use our lighter at Balangiga, Samar between November 8 and November 10, 1952, onto which your cargo will be loaded.

"3. Loading at Balangiga, Samar, will be for your account and must be completed within 48 hours from date of arrival of our lighter at the said loading point. Likewise, unloading in Manila will be for your account and must be completed within 48 hours from receipt by you of notice of arrival of said lighters. For any day or fraction thereof in excess of the 48 hours loading allowance, the rate of ₱300.00 per day will be charged against you.

"4. It is hereby understood and agreed that you will load on our lighter the minimum load of 150 pieces of pilings, consisting of 65% from 35' to 40' a piece and 35% from 40' to 50' a piece.

"5. The advance payment of P500.00 will be made by you upon signing of this agreement, and the balance upon presentation to you of our invoice prior to discharging of your pilings from our lighters here in Manila.

"6. This company will have first lien on your cargo for any unpaid charges due from you as herein stipulated.

"7. It is understood that we will not be responsible for any loss or damage to your cargo or delay in the delivery of same for causes not attributable to our fault or negligence of our men and/or equipment.

"If you are agreeable to the above terms and conditions, kindly signify your agreement by signing at the left bottom hereof.

"Very truly yours,
"DELGADO BROTHERS, INC.
(Sgd.) "JOSE C. DELGADO
Asst. General Manager"

"Conforme:
(Sgd.) "Felicidad R. Montero"
(Exhibit "E")

This proposed contract was signed by Felicidad R. Montero in behalf of her husband, Pedro Montero, on November 3, 1952, and on the same date a niece of the plaintiffs paid to the defendant the sum of P500.00 called for in paragraph 5 thereof, for which a receipt was issued. Exhibit "F".

Two days after signing of this contract by Felicidad Montero, or on November 5, 1952, the defendant sent to the master of its tugboat CFS-14, which had already left Manila on a voyage for Surigao, Surigao, and MacArthur, Samar, a telegram, followed by an airmail letter, in which the former instructed the latter to proceed to Balangiga, Samar, and be there on the 9th or the 10th of that month to load a minimum of 150 wood pilings for Manila on account of Pedro Montero, the loading to be effected only within 48 hours after arrival, Exhibits "7" and "8", and on November 8, 1952, to Pedro Montero a telegram in words and figures as follows:

"3 DVT 55 JG AM 11 PD
MANILA HOTEL 11/8/52
BALANGIGA, SAMAR
"BARGES ARRIVING BALANGIGA
TOMORROW OR MONDAY.

DELBROS

1154 AM"
(Exhibit "C")

The tugboat CFS-14, with two barges in tow, arrived at the port of MacArthur, Samar, in the morning of November 8, 1952, and proceeded to discharge its cargo for that port. It did not, however, leave MacArthur for Balangiga until late in the afternoon of November 11, 1952, arriving at the latter port only about 6:00 o'clock in the morning of November 12, 1952.

There is conflict in the evidence as to cause of the delay in the arrival of the tugboat at Balangiga, and

what transpired theretofore and thereafter. The evidence of the plaintiffs tends to show that upon receipt on November 8, 1952 of the telegram Exhibit "C" Pedro Montero ordered his men immediately to raft 250 pieces of the apitong pilings which he then had at the mouth of the Balangiga river and to take them out into the sea in order that they could be loaded immediately on defendant's barges as soon as they arrived. That work was finished on November 9, 1952, so that on that date they were in the sea near the beach of Balangiga 250 pieces of timber pilings, duly rafted and ready for loading. The weather prevailing in the area in which Balangiga and MacArthur are on November 9 and 10 was fair, but on November 11, 1952, it turned to bad. Strong winds began to blow over the area, raising big waves in the sea. As a consequence, those rafted pilings were scattered and carried away by the waves, and plaintiffs' men were able to retrieve only 50 pieces at great risk to their lives. The rest was lost.

In the morning of November 12, plaintiffs' men began to reraft the pilings they were able to retrieve and raft those they had in reserve inside the Balangiga river. They were able to prepare for loading 171 pieces. In the afternoon of November 13, 1952, defendant's tugboat and barges arrived at Balangiga. Plaintiffs' men began loading pilings in the barges. In the same afternoon, after plaintiffs' men had loaded on defendant's barges 87 pieces of timber pilings, the master of the tugboat stopped the work of loading, stating that as the tide was low the barges may be grounded. After the tide had risen, plaintiffs' men decided to load more pilings on the barges. The master of the tugboat, however, refused to accept them, alleging that he had to sail immediately for Manila as he had received orders to that effect from the central office. Pedro Montero pleaded with him to delay the departure of the tugboat and to load the pilings they had ready for loading, but the latter remained adamant and left Balangiga in the same afternoon, leaving behind 84 pilings which were ready for loading, some of which were in the sea near the beach of Balangiga and some on the bank of the Balangiga river. These 84 pilings were subsequently carried away by the waves of the sea and lost.

On November 15, 1952, Pedro Montero accidentally met at Tacloban, Leyte, the master of the tugboat CFS-14 which was then on its way to Manila. The latter told the former that he needed some money for the subsistence of the crew of the boat and asked him to advance on account of the freight charges for his pilings the sum of ₱100.00. Pedro Montero delivered that amount to the tugboat's master, for which the latter issued a receipt, Exhibit "G".

Defendant's tugboat and barges with their load of 87 apitong pilings safely reached the City of Manila. The defendant delivered those pilings to the yard of the Atlantic Gulf and Pacific Co. in the City, and collected from that entity on account of the purchase price thereof the sum of ₱1,412.00 which it applied to the payment of the freight charges therefor. The balance of the purchase price of said pilings was later delivered to the plaintiffs.

On the other hand, the evidence of the defendant tends to show that the weather prevailing in the area in which MacArthur and Balangiga are during the period of November 9 to 11, 1952, was bad, as the same was then under the influence of the typhoon "Bess" which at that time was in the Pacific Ocean moving west towards northern Luzon; that on November 9 there were in the area light and intermittent rains and showers with winds of the velocity of from 5 to 10 knots per hour from the west quadrant; that on November 10 and 11, due to that typhoon and the presence in the vicinity of an intertropical convergence zone, light rains and showers frequently occurred in the area with winds of a velocity of 20 miles per hour, which was sufficient to raise in the sea waves 5 feet high; that because of this weather condition, which made navigation of the sea in the area very hazardous, particularly for a boat with a tow, the master of the tugboat CFS-14 was only able to leave MacArthur for Balangiga late in the afternoon of November 11, 1952, when the weather improved; that the tugboat with its barges arrived at Balangiga about 6:00 o'clock in the morning of November 12, 1952, but because the sea was still rough and the barges could not be beached immediately, the loading of the plaintiffs' pilings on said barges only began at 4:00 o'clock in the afternoon of that day; that the loading of the pilings on the barges continued during the whole day of November 13 and part of the morning of November 14; that about 10:00 o'clock in the morning of November 14, after plaintiffs' men had loaded on the barges 87 pieces of timber pilings, the loading stopped as there were no more pilings in the Balangiga beach which could be loaded; that the master of the tugboat thereupon signified his desire to depart but upon request of Pedro Montero he agreed to delay the departure of the tugboat for some time in order that the latter may load more pilings; that as notwithstanding this concession, the men of Pedro Montero failed to bring to the beach more pilings, at 5:30 o'clock in the afternoon of that day, November 14, 1952, the tugboat with its barges left Balangiga for the City of Manila; that upon arrival of said tugboat and barges at the City of Manila the defendant, as per agreement, delivered their load of 87 pieces of timber pilings to the yard of the Atlantic Gulf and Pacific Co. in that City, and

collected from that entity on account of the purchase price thereof the sum of ₱1,412.00 to cover the freight charges therefor.

For the sake of clearness, we shall make a separate discussion of the respective rights of the parties arising from the alleged loss of 200 timber pilings on November 11, 1952, and of those arising from the alleged loss of 84 timber pilings subsequent to November 13, 1952.

1. It is conceded that a number of timber pilings belonging to the appellees, duly rafted and ready for loading, were carried away by the waves on November 11, 1952, due to the bad weather which prevailed in the locality on that day and were lost. There is dispute, however, as to the exact number of the timber pilings that were lost. The appellees claim that it was 200, and this is based on their evidence which shows that upon receipt by Pedro Montero on November 8 of appellant's telegram advising him that its tugboat with barges will be arriving at the port of Balangiga either on November 9 or on November 10, the former's men began rafting the apitong pilings he had in the beach of Balangiga and taking them out in the sea; that on November 9 Pedro Montero's men had rafted and taken out in the sea ready for loading 250 apitong pilings; and that when on November 11, 1952 weather conditions in Balangiga became very bad, said 250 pieces of apitong pilings were carried away by the waves out into the sea and they were only able to retrieve 50 pieces, the rest having been lost. On the other hand, appellant claims that, as according to appellees' own evidence as of June 6, 1952 only 218 pieces of timber cut from the latter's forest concession had been scaled by the local forest guard, and they had paid forest charges only for that amount of timber product, Exhibits "A", "B", "B-1" and "B-2", said appellees could not have had on November 11, 1952, 250 apitong pilings in the sea near the beach of Balangiga, rafted and ready for loading, as they claimed, for, according to regulations, forest products cannot be removed from the concession until after they have been scaled and forest charges therefor paid. The trial court found that the facts are as testified to by the witnesses for the appellees. We find no reason in the record for disturbing this finding. Appellees' claim is established by testimonial evidence which has not been contradicted, while that of appellant is based on a mere deduction from part of the evidence of the appellees. The latter cannot be allowed to prevail over the former. We, therefore, find as established fact on November 9, 1952, the appellees had in the sea near the beach of Balangiga 250 apitong pilings, duly rafted and ready for loading; that on November 11, 1952 these pilings were carried out into the sea by big waves and the appellees were only able to re-

trieve 50 pieces thereof, thus permanently losing 200 pieces.

It is also conceded that the loss of the 200 pieces of timber pilings was caused by *force majeure* or an act of God, and that the appellant incurred in delay in the performance of its obligation under the contract in question. Appellant, however, contends that its tugboat and barges were not able to reach the port of Balangiga either on November 9 or on November 10 as agreed upon because of bad weather which rendered impossible navigation of the sea between MacArthur and Balangiga on those dates. Appellees, on the other hand, claim that the weather prevailing in that area on those dates was fair and navigation thereof even for small boats was possible. The evidence produced by the appellees in support of their contention consists of statements of residents of the locality and a certificate issued by the Acting Collector of the Port of Tacloban, Exhibit "I", which shows that on November 9 and 10 the weather prevailing in that area was fair; that several motor vessels and launches were given clearances by the Collector of Customs of the Port of Tacloban to leave that port for Surigao, Surigao, Butuan, Agusan, and Balangiga, General MacArthur and Dolores, Samar; that on November 10 the witness Pastor Aylion travelled on board a boat from Tacloban to Balangiga, leaving the former place at 8:00 o'clock in the morning and arriving in the latter at 12:00 o'clock p.m. On the other hand, the evidence presented by the appellant in support of its claim, consisting of the testimony of a representative of the Weather Bureau and copies of that Bureau's reports of weather conditions in the area, Exhibit "9", "10", "11", "11-A" to "11-L", shows that on November 9 and 10 the area in which MacArthur and Balangiga are was under the influence of the typhoon "Bess", which was then in the Pacific Ocean moving westward towards northern Luzon, and of an intertropical convergence zone in the vicinity; that as a result of this synoptic situation, light rains and showers occurred in the area, with winds from the east quadrant of from 5 to 10 knots per hour in velocity, during the period November 7 to 9, and that on November 10 and 11 also light rains and showers occurred in the area, with winds of about 20 miles in velocity per hour from the north which could raise waves five feet high. We are thus confronted with conflicting statements of witnesses, each side supported by documentary evidence whose genuineness is not questioned. Again, the trial court, which for obvious reasons is in a better position than us to graduate the relative credibility that must be accorded opposing witnesses, believed in the testimony of the witnesses for the appellees and found that the facts are as testified to by them. This finding is clearly war-

ranted. The Weather Bureau observations relied on by the appellant are not conclusive. They only contain statements of the general weather conditions in a given area, culled from reports and not from personal observation. Such observation, therefore, cannot be allowed to prevail over positive testimonies of witnesses residing in the place, particularly when, as in the instant case, they find corroboration in the unquestioned fact that several small vessels were allowed by the Collector of the Port of Tacloban, a place not very far from the municipalities of MacArthur and Balangiga, to leave that port in those dates for said municipalities and other ports of Samar and Mindanao, and that these vessels reached safely their respective destinations. Hence, the finding of the trial court that while the weather prevailing in the area in which MacArthur and Balangiga are on November 9 and 10 was not very fair, nevertheless it was not so bad as to prevent navigation of the sea by small vessels like appellant's tugboat, is warranted.

What remains to be determined, therefore, is whether or not upon the facts the appellant is liable to the appellees for the damages the latter suffered for the loss of the timber pilings in question.

The contract at bar being one of carriage and the appellant a common carrier, Article 1732, new Civil Code, the latter's liability is contractual, Article 1159, new Civil Code, and arises upon his breach of his obligation by fraud, fault, negligence, or delay. Article 1170, new Civil Code. It is the general rule that "no person shall be responsible for those events which could not be foreseen or which, although foreseen, were inevitable", Article 1174, new Civil Code. This rule is applicable to common carriers. They are not responsible for the loss, destruction, or deterioration of the goods when the same is due to flood, storm, earthquake, lightning, or other natural disaster or calamity. Article 1132, new Civil Code. To be entitled, however, to the benefits of the above codal provisions, it is necessary that the common carrier be free from negligence.

"An act of God cannot be urged for the protection of a person who has been guilty of gross negligence in not trying to avert its result. When the negligence of a person concurs with an act of God in producing a loss, such person is not exempt from liability by showing that the immediate cause of the damage was the act of God. To be exempt from liability for loss because of an act of God, he must be free from any previous negligence or misconduct by which that loss or damage may have been occasioned." IV Tolentino, Civil Code, 119.

And "in order that the common carrier may be exempt from responsibility, the natural disaster must have been the proximate and only cause of the loss", Article 1739, new Civil Code, and he must be free from negligence or misconduct by which that loss may have been occasioned,

Limpangco Sons vs. Yangco, 34 Phil. 597. If the common carrier negligently incurs in delay in transporting the goods, a natural disaster shall not free such carrier from responsibility". Article 1740, new Civil Code. In the case of *G. Martini, Ltd. vs. Macondray & Co.*, 39 Phil. 934, the Supreme Court said:

"In every contract of affreightment, losses by the dangers of the sea are excepted from the risks which the master takes upon himself, whether the exception is expressed in the contract or not. The exception is made by the law, and falls within the general principle that no one is responsible for fortuitous events and accidents or major force. *Casus fortuitous nemo praestat*. But then the general law is subject to an exception, that when the inevitable accident is preceded by a fault of the debtor or person bound, without which it could not have happened, then he becomes responsible for it. (Pothier, des Obligations, No. 542; Pret. A Usage, No. 57; Story Bailm, c. 4, No. 241; In Majoribus casibus si culpa ejus enterveniat tenetur; Dig. 44, 7, 1. s. 4)"

And in the case of *Tan Liao vs. American President Lines, Ltd.*, G. R. No. L-7280, Jan. 20, 1956; the Supreme Court stated:

"The obligation of the carrier to carry the goods naturally includes the duty not to delay their transportation, so that if the goods are lost or damaged by reason of an unjustified delay, the carrier is held liable therefor."

The same doctrine prevails in American Jurisdiction. (9 American Jurisprudence, 857-858), states the rule as follows:

"In several jurisdictions, the courts have taken the view that if a carrier negligently and carelessly delays a shipment, and the goods are overtaken in transporting it and damaged by an Act of God, which would not have caused the damage had there been no delay, it is liable, even though the act of God could not reasonably have been anticipated. In such cases, the negligence and reasonable delay are deemed to be such a proximate or concurring cause as will render the carrier liable. Courts sustaining this view, in analogy to the well-settled rule with reference to deviation, assert the principle that as a carrier is only exempted from liability by showing that an injury was caused by an act of God or the public enemy; to avail itself of such exemption it must show that it was itself free from fault at the time, so that if it departs from the line in fault, and in consequence of that fault, the goods are injured by an act of God, which would not otherwise have caused the injury, it is not protected."

In the instant case, while it is not disputed that the loss of the 200 pieces of timber pilings in question was due to an act of God, nevertheless it cannot be denied that the appellant was guilty of delay in placing at the disposal of the appellees at the port of Balangiga the barges contemplated in the contract, and that such delay was due, not to *force majeure* as said appellant claims, but to the negligence of its servant. The master of the tugboat in question failed to exercise that degree of diligence required by the nature of the obligation and the circumstances of

the case which is the essence of the fault, negligence, or delay contemplated in the law. The sea in the area was not so rough as to prevent navigation. In fact, other boats in similar conditions as appellant's tugboat were able to navigate it. And it cannot be held that the appellees were guilty of contributory negligence, or that it failed to take such measures as may be necessary to minimize the loss. The telegram of the appellant that its tugboat with barges will be at the port of Balangiga either on the 9th or the 10th of November 1952 was specific. When the appellees brought their timber pilings, duly rafted and ready for loading, out in the sea, the weather was still fair and it cannot be expected that bad weather would supervene. The appellant did not even advise the appellees that the barges would not be arriving at the port of Balangiga on those dates. There is, therefore, no reason for the appellees not to expect the coming of the tugboat and barges at the promised time and to adopt measures for the protection of the timber pilings from being lost.

Under the law and jurisprudence on the subject, therefore, the appellant is not exempt from responsibility for the loss of said pilings.

2. As regards the loss of 84 pilings subsequent to November 13, 1952, again there is conflict in the evidence. The evidence of the appellants show that the tugboat with the barges arrived at the port of Balangiga early in the morning of November 12, although it was able to beach the barges it had in tow only at about 4:00 o'clock in the afternoon of that day; that immediately after the barges were beached the men of the appellees began to load timber pilings thereon, and that loading continued during the whole day of November 13 and part of the morning of November 14; that about 10:00 o'clock in the morning of November 14, after appellees' men had loaded in the barges 87 pieces of timber pilings, the loading stopped because there were no more pilings in the beach of Balangiga which could be loaded; that upon request of appellee Pedro Montero the master of the tugboat agreed to delay its departure for some more time to enable the latter to load more pilings on the barges; that, as notwithstanding this concession, the men of the appellees failed to bring to the beach more pilings for loading, in the afternoon of that day, November 14, 1952, the tugboat with its barges left Balangiga for the City of Manila. On the other hand, the evidence of the appellees tends to prove that appellant's tugboat, with two barges in tow, arrived at the port of Balangiga in the afternoon of November 13, 1952; that appellees' men immediately began loading timber pilings on said barges, but after they had loaded 87 pieces, the master of the tugboat stopped the work of loading, alleging that because the tide was low the barges might be

grounded; that after the tide had risen, appellees' men wanted to continue the loading of timber pilings on the barges, but the master of the tugboat refused to allow them, stating that he had to leave immediately for Manila as he had received orders to that effect from the central office; that Pedro Montero pleaded with the master of said tugboat to delay its departure so that they could load more pilings on the barges, but the latter refused and left Balangiga immediately, leaving behind 84 timber pilings which were in the sea, duly rafted and ready for loading, and that these 84 pilings were subsequently carried away by the waves of the sea and lost. The respective claims of the parties are supported by testimonial evidence. The determination, therefore, of which claim is correct depends on who of the opposing witnesses merit credence.

Ordinarily, we do not interfere with findings of fact of trial courts, particularly when they are based on irreconcilably conflicting testimonies. There are, however, in the record of facts and circumstances which constrained us to do so in the instant case. If, as alleged by the witnesses for the appellees, on November 11, 1952, they had in the sea only 250 timber pilings which were rafted and ready for loading; that these pilings were carried away by the waves into the sea and they were only able to retrieve 50 pieces, which they had to reraft and prepare in such a way that they could be loaded immediately, it would seem incredible that said men, tired because of the salvage work they had done the previous day, were able to reraft on November 12 and the morning of November 13 the 50 pieces they were able to retrieve plus 121 pieces of pilings more and bring them out into the sea, granting that the appellees had in their log pond inside the Balangiga river sufficient number of timber pilings, and to load on the barges 87 pieces of timber pilings during the afternoon of November 13. The loading of pilings of the measurements called for in the contract at bar on barges is not an easy job. The work requires, not only skill, but considerable efforts. Certainly the loading on barges of 87 pieces of such size of timber pilings could not be accomplished in a few hours. Moreover, the alleged excuse given by the master of the tugboat for stopping the work of loading of pilings on the barges—that he received orders from Manila to come to that port immediately—is denied by the witnesses for the appellant. This denial has not been overcome by the evidence of the appellees. On the contrary, Pedro Montero's subsequent conduct strengthens it. The latter knew that under the contract the tugboat had to be at the port of Balangiga for 48 hours. Yet, he did not even make any protest by wire to appellant's central office against the decision of the master of the tugboat. Furthermore,

if, as Pedro Montero claimed, the tugboat's master refused to accommodate him and decided to leave Balangiga notwithstanding his request that the departure of the boat be delayed so that he could load on the barges some more timber pilings were true, we find no explanation in the record for his act in giving the latter at Tacloban on November 15 ₱100.00 for the subsistence of the boat's crew. Such attitude does not jibe with the feelings of a man who has been inconvenienced.

We are, therefore, inclined to believe that appellees' claim that they lost 84 pieces of timber pilings subsequent to November 13, 1952, does not reflect the truth. At least, it is not clearly established by the evidence. We find that the facts are as testified to by the witnesses for the appellant; that appellant's tugboat and barges arrived at Balangiga early in the morning of November 12, the loading of the timber pilings on said barges began in the afternoon of that day, continued the whole day of November 13 and stopped at 10:00 o'clock in the morning of November 14, because there were no more pilings in the beach of Balangiga that could be loaded, and that when that tugboat left for Manila at 4:00 o'clock in the afternoon of November 14 there were no more pilings in the beach of Balangiga which could be loaded on said barges.

But, be the facts such as the appellees claim, nevertheless we are of the opinion that they are not entitled to an award of damages for the loss of said pilings. When and how they were lost is not clearly shown by the evidence. All that the witnesses for the appellees said is that they were carried away by the waves. No specific date when the loss occurred has been stated, and there is no showing that bad weather prevailed in the area subsequent to November 13. There is no showing either that the appellees made any effort to bring those logs back to their log pond inside the Balangiga river after the tugboat left them behind. Presumably, if such timber pilings existed, the appellees left them where they were at the mercy of the elements.

Under the facts, therefore, we do not see how the appellees could recover damages. The proximate cause of the alleged loss of said pilings was an act of God. Appellant's refusal to carry them, granting that such were the fact, was merely a remote cause; for between the alleged unjustified refusal of the master of the tugboat to delay the departure of the boat and allow the loading of said pilings on appellant's barges and the loss of those timber pilings due to an act of God, there intervened appellees' negligence in not taking the necessary steps to save said pilings from loss. There is, therefore, a break in the chain of causation between the act of God and

their loss caused by appellees' own negligence, which may be held as the proximate cause of the loss. Appellees are not even entitled to set up the claim of contributory negligence.

"* * * The rule that contributory negligence is not a defense in an action brought to recover for an intentional wrong does not apply to a situation where the negligence of the plaintiff is not a mere contributory cause, but an efficient, responsible cause intervening between the wrong and the injury as the real producing cause thereof. In fact the chain of causation between the defendant's negligence and the plaintiff's injury is broken when an independent act of the plaintiff, not within the reasonable contemplation of the defendant, intervenes to bring about the injury. Under such state of facts, the negligence of the defendant is regarded as the remote cause and the intervening act of the plaintiff as the proximate cause of the injury. This is true whether or not the plaintiff's act amounts to contributory negligence and whether or not the infancy of the plaintiff precludes contributory negligence on his part. When the complaining party had some means of escape from an impending danger and he could have availed himself of, or when the means of avoiding it were open to his choice, the negligence of the defendant will not generally be regarded as the proximate cause of the injury, in the absence of facts or circumstances showing the connection between the two. 38 Am. Jur. 735-736.

Upon the facts, therefore, we hold that the appellant is liable in damages to the appellees only for the loss of 200 pieces of apitong pilings which took place on November 11, 1952, and that it is not liable in damages for the alleged loss of 84 pilings subsequent to November 13, 1952.

The evidence as to the value of the timber pilings in question is not clear and specific. Appellee Pedro Montero testifying on the point said:

Q. Coming to the value of the logs that you had lost because of the failure of the defendant to send the barge on the 8th, 9th and 10th as stipulated in Exhibit E, what is the value of the logs you lost?

A. The minimum value of the log I lost as based on the price quoted by the Atlantic Gulf is P10,990, the minimum value.

Q. This amount of P10,990.00 is the value of the 250 logs?

A. Yes, sir.

Q. What will be the freight of this 250 logs if they were transported with the length as the present stipulation in the contract, Exhibit E, how much freight would you pay for the 250 logs?

A. P3,350.00

Q. So that your net loss would be how much?

A. That would be subtracting P3,350 from P10,990.00 or that would be P10,990 minus P3,350—the difference.

Q. Aside from that you advance, P600.00?

A. Yes, sir, covered by receipt.

(t.s.n., p. 38-39)

Appellant, however, claims that, as according to the forest guard who scaled appellees' logs, those which he scaled on June 4, 5 and 6, 1952, along the Balangiga river and Canalao Creek measured around 8.4 meters, or 27.72 feet, each, and the price of each log of that size was

only P24.00 according to purchase order of the Atlantic Gulf and Pacific Co. of Manila Exhibit "D", the value of the logs lost is only P6,600.00, Manila price, less P3,000.00 for freight charges at the rate of P12.00 per piece as per agreement. Appellant's claim cannot be given much value. There is no evidence that the logs scaled by said forest guard were the very logs which the appellees lost. Moreover, it is an admitted fact that appellant collected from the Atlantic Gulf and Pacific Co. of Manila the sum of P1,412.00 in payment of the freight charges for the 87 pieces of timber pilings it transported from Balangiga to the yard of said entity in Manila. This charge represents collection of freight charges for said shipment of around P16.22 per piling, which was a little over the freight charges for pieces of 40 to 50 feet provided for in the contract Exhibit "E". The amount could not have been collected as freight charges for the minimum of 150 pieces provided for in said contract, for the result would be that the appellant only charged per piece around P9.45, a sum very much lower than the minimum of the rate of freight therein provided for, or P12.00 for pieces 35 to 40 feet long. There is, therefore, ample reason to believe in the truth of the claim that the lengths of the pilings lost were from 40 to 50 feet. The price fixed by appellee Pedro Montero for the 250 pilings allegedly lost including the freight charges was P10,990.00. Consequently, the price he was charging per piece was P43.96, including freight charges. This is not unreasonable, for it is between the amount of P28.50 fixed per unit of pilings 35 feet long and that of P57.00 fixed per unit of piling 50 feet long in the purchase order Exhibit "D". The freight charges for the 250 pilings allegedly lost was estimated by said appellee at P3,350.00. Deducting this amount from that of the gross loss of P10,990.00, the result would be a net loss of P7,460.00 for said 250 pilings, or P30.56 per piece. For the 200 pieces of timber pilings, therefore, which were lost on March 11, 1952, appellees are entitled to recover from the appellant the amount of P6,112.00, as damages, to which should be added the sum of P500.00 delivered to the appellant shortly after the signing of the contract Exhibit "E" and the sum of P100.00 given by appellee Pedro Montero to the master of the tugboat CFS-14 in Tacloban, Leyte, on November 15, 1952, which amounts evidently have not been deducted from the freight charges collected by said appellant for the shipment of 87 pieces of timber pilings in question, thus making a total of P6,712.00.

WHEREFORE, with previous modification of the judgment appealed from, the defendant-appellant Delgado Brothers, Inc., is hereby sentenced to pay to the plaintiffs-appellees, Pedro Montero and Felicidad R. Montero, the sum of

P6,712.00, with interest thereon at the legal rate from and including the date the complaint in this case was filed until that amount is paid in full, and to pay the costs in first instance. No pronouncement is made as to costs in this instance.

IT IS SO ORDERED.

Sanchez and Angeles, JJ., concur.

Judgment modified.

[No. 23281-R. August 13, 1958]

MANUEL DEL ROSARIO and MARIA CRUZ, petitioners, *vs.* BENITO MACROHON, Clerk of the Court of First Instance of Rizal, HON. GUSTAVO VICTORIANO, Judge Branch I, Court of First Instance of Rizal, DIRECTOR OF LANDS, Manila, and the LAND TENURE ADMINISTRATION, respondents.

PROHIBITION; SCOPE AND PREREQUISITES FOR ITS ISSUANCE; SEC. 2, RULE 67, RULES OF COURT.—The writ of prohibition is an extraordinary remedy which may issue only under extraordinary circumstances. Its office is the prevention of an encroachment, excess, usurpation, or assumption of jurisdiction by an inferior court or tribunal, or, it has been said, to prevent some great-outrage upon the settled principles of law and procedure, in cases where wrong, damage, and injustice are likely to follow from such action (42 Am. Jur. 140-141). In this jurisdiction its scope has been broadened to include, against whom it may be issued, any corporation, board, or person exercising judicial or ministerial functions which are without or in excess of the jurisdiction of such corporation, board or person (Sec. 2, Rule 67, Rules of Court; Moran, Rules of Court, p. 171). Sec. 2, Rule 67 of the Rules of Court and the decisions of the Supreme Court and of this Court interpreting the said section, prescribe three prerequisites for the issuance of the writ of prohibition. *First*, the body or person against whom the writ is sought to be issued must be one exercising functions judicial or ministerial. *Second*, the respondent must have acted without or in excess of its or his jurisdiction, or with grave abuse of discretion. *Third*, there is no appeal or any other plain, speedy, and adequate remedy in the ordinary course of law available to the petitioner.

ORIGINAL ACTION in the Court of Appeals. Prohibition with preliminary injunction.

The facts are stated in the opinion of the Court.

Fernando Pagtakhan, for petitioners.

Juan F. Aguilar, for respondents.

CASTRO, J.:

The petitioners Manuel del Rosario and Maria Cruz are among the many defendants in civil cases 2919 to 3022, 3038 to 3108, 3135, 3236 and 3282 to 3417 (*acción reivindicación*), filed in the Court of First Instance of Rizal by the Republic of the Philippines on October 25, 1954.

The lower court set the cases for hearing on July 9, 1957, but the defendants moved for indefinite postponement, claiming in essence that having occupied the premises in question long before their acquisition by the plaintiff on February 23, 1947, they are *bona fide* tenants thereof; and that the Land Tenure Administration, finding their plight to be deserving of consideration, has negotiated with the Bureau of Lands for the release of a portion of public land adjoining the Nicholas Field for division into lots and distribution thereof to them, and had agreed to allow them

to continue occupying their respective sites until the allocation of the lots in the newly acquired area shall have been completed, and until the defendants shall have accordingly transferred their houses.

In its decision, promulgated on December 12, 1957, the trial court decided against the defendants and ordered their ejectment. The lower court said:

"From the gist of the testimonies of the defendants, they contend that the Government should provide them with places where to move their respective houses before they could be ejected.

"This is an action for recovery of possession (*acción reivindicación*) and the evidence for the plaintiff shows that the defendants are occupying lot No. 7 of the Baclaran Homesite situated in the Municipality of Parañaque, Province of Rizal; they have been required to vacate the premises occupied by them because these premises are road lots and therefore cannot be subject matter of any contract of sale or of lease and besides that they are needed by the Government. The evidence further shows that the plaintiff is the owner of the Baclaran Homesite, and pursuant to a directive issued by the President of the Philippines, Exhibit D, all road lots of the Estate are ordered opened for fear that in the event of fire there would be no proper exit for the people residing in the interior so that the whole area might be in danger of being burned in case of conflagration. And the defendants have not presented any evidence to sustain their rights to stay on said road lots as they claim. Besides, the Court notices that these defendants have been granted considerable time by the Government to find other places to where they could move their houses but they failed to avail of said opportunity."

The defendants did not appeal from the decision of the trial court. Explaining their failure to appeal, the petitioners, in paragraphs 15 and 16 of their petition, allege:

"That after the decision on said civil cases Nos. 2945 and 2939 was rendered by the respondent judge, petitioners unceasingly made representations with the officials of the Land Tenure Administration and no less than the Commissioner of the said Office, Atty. Julian de Veyra and the trial lawyer, Atty. Juan F. Aguilar assured the herein petitioners and the group of Baclaran Squatters that they will instruct the respondent Sheriff to dissist from enforcing the writ of execution rendered by the respondent judge.

"That in view of the verbal assurances made by the officials of the respondent Land Tenure Administration that they will not enforce the order as embodied in the writ of execution issued by the respondent judge, herein petitioners did not bother to appeal the decision of the respondent judge in the cases herein mentioned, and it was therefore to the bitter surprize of the petitioners when the Assistant Provincial Fiscal prosecuting the said cases filed with the respondent Clerk of Court a 'Motion for Demolition' on April 11, 1958, copy of which motion is hereto attached as Annex 'C' and made a part of this petition."

The respondent Land Tenure Administration, in its answer, denies the truth of the above allegations, as follows:

"That the allegations contained in paragraphs fifteen (15) and sixteen (16) are baseless, untrue, and a misrepresentation of facts before this Honorable Court. The true facts being, Atty. Fernando Pagtakhan, who is representing the squatters requested verbally the

Secretary to the Chairman, Land Tenure Administration, for time to vacate the premises and to hold for the time being the enforcement of the Court's order; and the Secretary knowing that the undersigned counsel is the one appearing in these cases asked him if an extension could still be granted the petitioners to peacefully remove their houses, and because of the assurance of said attorney—Fernando Pagtakhan, to the office, he was given a period of one week to effect the removal of the houses, in fact the enforcement of the execution-order was delayed for one week upon that verbal request of counsel. Again, the counsel and petitioners did not take the necessary steps to make true their promises in the office, hence, the action taken by the Office of the Provincial Fiscal for the immediate demolition of their houses."

At any rate, on June 9, 1958 the lower court ordered the provincial sheriff of Rizal to demolish the houses of the herein petitioners, and the latter were duly advised that their houses would be demolished on June 16, 1958. On June 13, 1958, the petitioners filed the instant petition for prohibition with preliminary injunction to restrain the respondent court and the respondent sheriff from proceeding with the demolition, and thereafter, after due hearing, to permanently enjoin them from enforcing the writ of demolition.

The writ of prohibition is an extraordinary remedy which may issue only under extraordinary circumstances. Its office is the prevention of an encroachment, excess, usurpation, or assumption of jurisdiction by an inferior court or tribunal, or, it has been said, to prevent some great outrage upon the settled principles of law and procedure, in cases where wrong, damage, and injustice are likely to follow from such action (42 Am. Jur. 140-141). In this jurisdiction its scope has been broadened to include, against whom it may be issued, any corporation, board, or person exercising judicial or ministerial functions which are without or in excess of the jurisdiction of such corporation, board or person (Sec. 2, Rule 67, Rules of Court; Moran, Rules of Court, p. 171).

Sec. 2, Rule 67 of the Rules of Court and the decisions of the Supreme Court and of this Court interpreting the said section, prescribe three prerequisites for the issuance of the writ of prohibition.

Firstly, "The body or person against whom the writ is sought to be issued must be one 'exercising functions judicial or ministerial'" (Francisco, Special Civil Actions, pp. 141-142). The respondents obviously are fit subjects of the writ of prohibition.

Secondly, the respondent must have acted "without or in excess of its or his jurisdiction, or with grave abuse of discretion".

Did the respondent court act without or in excess of its jurisdiction or with grave abuse of discretion in ordering

the execution of the judgment? The answer may be reached by determining whether the judgment has become final, for only final judgments can be executed.

"An order is deemed final when it finally disposes of the pending action so that nothing more can be done with it in the lower court" (Mejia *vs.* Alimoring, 4 Phil. 572; Insular Government *vs.* Roman Catholic Bishop of Nueva Segovia, 17 Phil. 487; People *vs.* Macaraig, 54 Phil. 904).

The judgment rendered by the respondent court finally disposed of the case; there was nothing more to be done but to execute it. Section 1 of Rule 39 of the Rules of Court empowers the Court of First Instance to order the execution of its judgment "upon the expiration of the time to appeal when no appeal has been perfected". The defendants having failed to appeal, the respondent court acted strictly within the bounds of law in ordering the execution of its decision.

Thirdly, there is no appeal or any other plain, speedy, and adequate remedy in the ordinary course of law available to the petitioners.

"Prohibition is granted only in cases where no other remedy is available which is sufficient to afford redress. That the petitioner has another and complete remedy at law either by appeal or otherwise, is generally a sufficient reason for denying the writ" (Moran, Rules of Court, Vol. 2, 1957 ed., p. 174).

The petitioners had an adequate and speedy remedy in the ordinary course of law, which was to appeal from the decision of the lower court. Their failure to exercise this remedy does not now entitle them to the writ of prohibition.

Aside from appeal, the petitioners have another plain and adequate remedy—*certiorari*—if they have been deprived of the right to appeal through fraud, mistake or excusable negligence and if, in addition, they can show that they have a substantial defense against the claim of the plaintiff.

"Where the appeal is an adequate remedy but has been lost through petitioner's negligence which is not otherwise excusable, *certiorari* is not proper. *Certiorari* will not lie as a substitute for an appeal. But where the right to appeal or to pursue some other remedy has been lost through fraud, accident, mistake or excusable negligence, or through the court's own fault, *certiorari* may be granted upon a showing of probable merits" (Moran, Rules of Court, Vol. 2, 1957 ed., pp. 165-166).

The petitioners did not avail themselves of the remedy of *certiorari*.

In concluding we cannot resist the temptation to state that the plight of the petitioners is probably a proper object of great lamentation on their part, and they possibly deserve every human sympathy. But the remedial action

in their case lies exclusively within the executive branch of the government and wholly outside the province of the entire judicature.

WHEREFORE, the petition is hereby dismissed, with costs against the petitioners.

De Leon and Makalintal, JJ. concur.

Petition dismissed.

[No. 19818-R. August 14, 1958]

EUGENIO LIM, plaintiff and appellee, *vs.* JUANITO MIRANDA,
ET AL., defendants and appellants

1. CHATTEL MORTGAGE; KNOWLEDGE OF UNREGISTERED MORTGAGE EQUIVALENT TO REGISTRATION.—The actual knowledge by a vendee that the chattel sold to him has been previously mortgaged to another is equivalent to registration. Whatever right may have been acquired by said vendee by virtue of the sale in his favor is subject to the superior lien of the mortgagee although unrecorded at the time of the sale.
2. ID.; APPROVAL OF THE PUBLIC SERVICE COMMISSION, WHEN NECESSARY.—The approval by the Public Service Commission of chattel mortgages involving public conveyances is necessary only when the mortgage or encumbrance is for liabilities of more than one year maturity. (Sec. 20, par. g, Commonwealth Act No. 146, as amended).

APPEAL from a judgment of the Court of First Instance of Manila. *Solidum, J.*

The facts are stated in the opinion of the Court.

Manuel L. Pitco, for defendant and appellant.

Francisco R. Sotto, for plaintiff and appellee.

DE LEON, *J.*:

This is an action for foreclosure of a chattel mortgage. The defendants, after trial, were ordered to pay jointly and severally the sum of ₱1,000.00, with 12% interest from July 27, 1955, and the additional sum of ₱100.00 as attorney's fee, to the plaintiff, as well as the costs of suit, in default of which defendant Juanita Vargas was ordered to deliver the jeepney in question to the Sheriff of the City of Manila to be sold at public auction to satisfy the judgment.

Most of the salient facts of the case are not controverted, and defendant Juanita Vargas has come to this Court assailing the findings of the court of origin which ruled that plaintiff Eugenio Lim, to whom the jeepney was mortgaged by defendant Juanito Miranda, has a better right to the said vehicle than said Juanita Vargas, who bought the same vehicle from her co-defendant. Said the lower court:

"Defendant Juanito Miranda was the owner of a Fort jitney with Motor No. J-443-D, Chassis No. MVO-2016-C and Plate No. TPU-5336, which he operated in the City of Manila with a franchise duly granted by the Public Service Commission (Case 83864) on March 14, 1955. On July 27, 1955, Juanito Miranda, to secure the payment of ₱1,000.00, payable in ten (10) equal installments of ₱100.00 per month beginning August 30, 1955, executed a chattel mortgage over said motor vehicle including its franchise, in favor of the plaintiff, Eugenio Lim, as per corresponding Deed of Chattel Mortgage (Exhibits "A" and "B"), which was duly registered in the office of the Register of Deeds of the City of Manila on December 20, 1955. When Juanito Miranda failed to pay his indebtedness to the plaintiff, the latter requested the

Sheriff of Manila to foreclose the mortgage, which could not be done, for the reason that the said jitney was no longer in the possession of the mortgagor, Juanito Miranda, but in that of his co-defendant, Juanita Vargas.

It appears that on April 4, 1954, Juanito Miranda mortgaged the same jeepney in favor of Juanita Vargas for the sum of P4,500.00 with interest at 12% per annum, for a period of two (2) years, as shown by the corresponding Deed of Chattel Mortgage (Exhibit "1—Vargas"), which document, however, was not registered in the office of the Register of Deeds of the City of Manila. On September 27, 1955, Juanito Miranda executed a Deed of Absolute Sale and Transfer over said jeepney together with its certificate of public convenience, in favor of Juanita Vargas (Exhibit "2—Vargas"), which sale was duly approved by the Public Service Commission on January 18, 1956, over and against the opposition of the plaintiff, Eugenio Lim."

It further appears that the transfer in favor of the appellant was provisionally approved by the Public Service Commission on October 14, 1955; that appellee filed a motion for new trial on December 16, 1955, apprising the Commission of the subsisting mortgage in his favor; and, that appellee registered the deed of chattel mortgage in the Chattel Mortgage Register of Manila on December 20, 1955, or after the sale to the appellant and its provisional approval by the Public Service Commission.

Defendant Juanito Miranda, however, testified for the appellee and said that Juanita Vargas was well aware of the mortgage in favor of appellee Lim and that he agreed to execute the deed of sale only after Vargas had promised that she would take care of paying off the mortgage in favor of the appellee. As was stated by the lower court, "this testimony of Juanito Miranda has not been denied by Juanita Vargas for the simple reason that she did not testify in court in her own behalf." This particular claim of Miranda was substantiated by Ruben Rodriguez, former driver of said Juanito Miranda, who declared that he overheard Miranda tell Vargas that Miranda had debts due the appellee and one Ablaza and could not deliver the jeep to said Vargas who, however, replied that she would be responsible for all these debts of Miranda. The actual knowledge of Vargas of the prior unregistered mortgage in favor of the appellee was equivalent to registration. In plain, whatever right was acquired by Vargas by virtue of the sale in her favor was subject to the superior lien of the appellee although unrecorded at the time of the sale.

There is no merit in the argument of appellant's counsel that the chattel mortgage, although properly registered with the Registry of Deeds of Manila, was ineffective because it was not registered with the Public Service Commission. We find nothing in the Public Service Act which upholds this argument. True, Section 20, paragraph g, of the said Act, as amended, speaks of mort-

gages or encumbrances, but the court below was correct when it said that "the chattel mortgage in favor of the plaintiff did not require any previous approval by the Public Service Commission to be valid because said mortgage is only for a period of ten (10) months and paragraph g, section 20, of the Public Service Act (Commonwealth Act No. 146, as amended), expressly provides that such approval is necessary only when the mortgage or encumbrance is for liabilities of more than one year maturity."

WHEREFORE, the decision appealed from is hereby affirmed in all respects, with costs.

SO ORDERED.

Makalintal and Castro, JJ., concur.

Judgment affirmed.

[No. 18420-R. August 20, 1958]

REPUBLIC OF THE PHILIPPINES, petitioner and appellant,
vs. ALBINO ABANIEL, ET AL., claimants, HEIRS OF
ANICETO CLARIN, claimants and appellees.

LAND REGISTRATION; CONFIRMATION OF IMPERFECT TITLES; IMPERFECT COMPOSITION TITLE CONFIRMABLE UNDER SEC. 48, COMMONWEALTH ACT NO. 141.—An application for composition title (*título de composicion*) which was not approved by the proper authority designated under Article 8, Royal Decree of February 13, 1894, could not by itself alone vest title upon the applicant; but the said document is an imperfect title, and evidence of possession on behalf of claimants who had occupied and cultivated the land as owners thereof. The latter, therefore, are entitled to be respected in their ownership of that land, and to the confirmation of their title thereto. Sec. 48, Commonwealth Act No. 141.

APPEAL from a judgment of the Court of First Instance of Bohol. Alo, J.

The facts are stated in the opinion of the Court.

First Assistant Solicitor General Guillermo E. Torres, Solicitor Isidro C. Borromeo and Special Attorney Melecio Fortuno, for petitioner and appellant.

Anastacio A. Mumar, for claimants and appellees.

SANCHEZ, J.:

The present proceedings were started on August 29, 1939 by petition of the Director of Lands in pursuance of the provisions of Section 1855 of the Revised Administrative Code. Object thereof was to settle the title to 924 lots situate in the municipality of Carmen, Province of Bohol, designated as Carmen Public Land Delimitation No. No. 4.¹ The foregoing petition was published in the Official Gazette, dated January 18, 1940, Volume 38, No. 8, pp. 142-144. Before the last global war, an order of general default had been issued by the court. In view, however, of the fact that this order could not be reconstituted, on July 29, 1953, the trial court directed that a new order of general default be entered against the whole world, with the exception of those who have filed their answers.

Amongst the lands covered by the petition is Lot No. 20 of the Carmen Public Land Delimitation No. 4, situate in the sitio of Dat-an, barrio of Bicao (now called Katipunan), municipality of Carmen, Bohol, and described in the reconstituted plan, Exhibit A. It appears in this plan, Exhibit A, that Lot No. 20 was surveyed for Clarin Hermanos from October, 1933 to December, 1935 by Jose Ma. Paredes, Public Land Surveyor. Said plan was approved by the Director of Lands on December 29, 1937.

¹ Expediente No. 29, G.L.R.O. Cadastral Record No. 2000.

Lot No. 20, aforesaid, is contested by the Commonwealth (Republic) of the Philippines, upon the one hand, and Eustaquia Clarin, Olegario B. Clarin and Imelda Clarin, on the other. The first, represented by the Director of Lands, asserts that Lot No. 20 is a public land. The Clarins, however, claim the same to be their private property. Other individuals, styling themselves as homestead applicants over portions of Lot No. 20, also filed their respective answers on November 27, 1951. These claimants are Agripino Melicor, Norberto Dingal, Alipio Rejas, Paulo Dingal, Pacifico I. Rejas, Santiago Sumampong, Sergio Javier, Pedro Jaojao, Feliciano Gabuna, Felipe Pasoc, Concordio Rulona, Panfilo Calamba and Alberto L. Rulona.

After trial on the merits, judgment below was rendered as follows:

"PREMISES CONSIDERED, the Court renders judgment ordering that Lot No. Twenty (20) be registered *pro indiviso* and in equal shares in the name of Eustaquia Clarin, wife of Jose Fernandez; Olegario B. Clarin, husband of Zoila Lim, and Imelda Clarin, surviving spouse of the deceased Jose C. Zarraga, all of legal age, Filipino citizens, residents and with post-office address at the municipality of Loay, province of Bohol. The Court likewise orders the registration of all the improvements of this lot in the name of the same persons, with the exception of the houses or buildings actually occupied by any of the claimants who filed their answers to wit: Pacifico I. Rejas, Agripino Melicor, Roberto (Norberto) Dingal, Alipio Rejas, Paulo Dingal, Santiago Sumampong, Sergio Javier, Pedro Jaojao, Feliciano Gabuna, Felipe Pasoc, Concordio Rulona, Panfilo Calamba and Alberto L. Rulona. These houses or buildings, however, may be litigated in a separate civil action under the law of accretion.

The answers of the Director of Lands and of the other claimants are hereby dismissed.

After this judgment has become final and executory, let decree of registration be issued accordingly.

The present judgment is rendered without special pronouncement as to costs."

The Republic of the Philippines elevated this case to this Court on appeal.

On October 19, 1893, Aniceto Clarin y Velez filed an application for a composition title covering thirty parcels of land situate in the municipality of Carmen, Bohol.¹ Paragraph 1 of the petition recites:

"D. Aniceto Clarin y Velez natural y vecino de Loay y provisto de su correspondiente cedula personal ante V. respetuosamente expone:—Que en este término jurisdiccional viene poseyendo y cultivando á título de dueño treinta partidas de terrenos de las cuales las cinco primeras han sido adquiridas por compras a D.

¹ Hereinafter, the lands set forth in the application for composition title shall be designated by "parcels", such as parcel 20, to obviate confusion, for the reason that the land in question is designated as Lot No. 20 of the Carmen Public Land Delimitation No. 4.

Julio Boranab y Multo según justifica la copia de la copia de la escritura que al efecto tiene la honra de acompañar y las veintecinco restantes . . . (part destroyed)—das desde hace . . . (part destroyed) por su padre D (part destroyed) hallandose radicada . . . (part destroyed)."

Included in this application are parcels 17, 18, 19 and 20, described therein. A commission of four persons was appointed to investigate the lands, subject of the application. They examined the thirty parcels one by one with the assistance of an assessor (*perito practico*). They all found that each of parcels 17, 18 and 19 was cultivated (*está cultivada*). Nothing was said of Lot 20 except that, after giving the natural boundaries, namely, Dat-an Creek to the north and west, a public road (*camino público*) to the south, and "*terreno inculto*" to the east, the commission stated that it had an area of about 29 hectares and 50 ares. The report also included a sketch and the assessed value of each parcel and stated that there was no adverse claim whatsoever. The said report which bears date of October 25, 1893 was signed by the four commissioners, Gabino Cajoc, Prospero Ajoc, Meliton Pajo and Fabian Aparicio, and the *perito practico*, Damaso Martin y Lunas.

On February 15, 1895, the application for *título de composicion* was approved by the provincial board of Bohol. The title was thereafter recorded in "Libro 3.0, Fo. 339 al 365."

Admittedly, Lot 20 of the Carmen Public Land Delimitation No. 4 is composed of the four parcels in the *título de composicion* heretofore mentioned, namely, parcels 17, 18, 19 and part of parcel No. 20, below the provincial road described in the sketch, Exhibit E, drawn by Ciriaco Mabunga, Provincial Land Officer.

As early as 1893, the land in question, Lot No. 20, was in the possession of Aniceto Clarin y Velez, as owner thereof. It was planted to palay, corn, camotes and bananas. There were bamboo trees, too. This lot was enclosed by a fence made of split and round bamboo, known in the locality as *bongbong*. There were then inside that fence more than 100 heads of cattle belonging to Aniceto Clarin. That fence had to be constructed to guard against the entrance of animals from the adjoining estates. At that time, the *encargado* or overseer of Clarin was Isidoro Unajan, known in the locality as *Capitan Doroy*. In addition to Unajan, there were *vaqueros*. The *encargado* and *vaqueros* lived in five houses located in the land. Aside from the bamboo fence around the land, the rice paddies along the Loboc river and the upland rice fields in the middle of the lot were all enclosed in bamboo fence, obviously, to prevent Clarin's own animals from destroying the plantings.

Aniceto Clarin died in 1906. He was succeeded in the possession and ownership of the lot in question by his children, Jose, Nicolas, Jacinto, Felix, Maria, Eustaquia, Olegario and Imelda, all surnamed Clarin. Jose, Nicolas, Jacinto, Felix and Maria died respectively in the years 1935, 1936, 1938, 1944 and 1922, without ascendants or descendants. The present claimants are Eustaquia, Olegario and Imelda, all surnamed Clarin.

By 1919, the present provincial road from Carmen to Sierra-Bullones was constructed. This provincial road divided parcel 20 of the composition title into two almost equal parts. In 1919, Isidoro Unajan was still the overseer. There were five houses. There were still more or less 100 heads of cattle roaming in the land enclosed in a fence. This pasture covered about 100 hectares. About 50 hectares of the land were dedicated to agriculture. There were irrigated rice paddies, upland rice fields, corn, camotes, buri, *nanghas* and bamboos.

Sometime about the year 1929, five persons applied for homesteads within the limits of parcels 20 and 21 of the *titulo de composicion* granted in favor of Aniceto Clarin y Velez. The heirs of Aniceto Clarin opposed said homestead applications upon the claim that those two parcels are their own. On August 1, 1929, the Director of Lands rejected the applications of the said homesteaders who appealed to the Secretary of Agriculture and Natural Resources. The latter, in a decision dated February 21, 1930, found that the lands applied for by the homesteaders were inside the tract described in the *titulo de composicion (Titulo Real)* heretofore mentioned. Whereupon, the appeal was dismissed. Exhibit J.

In 1930, about one-half of Lot No. 20 was being worked. Palay, cassava and corn were planted. There were coffee and fruit trees, and several buri trees and several clumps of bamboos. There were also some coconut trees. At that time, the *encargado* was Federico (or Teodorico) Molina. Amongst the tenants then were Felipe Pasoc, Facundo Caragao, Damian Alcoser, Juan Alcoser, Juan Berondo, Geraldo Sumampong, Perfecto Intero, Gervacio Salisi and Cornelio Gudmaling. In that year, a house of strong materials was built along the provincial road from Carmen to Sierra-Bullones. This house was built for the deceased former Senator Jose A. Clarin, one of the children of the late Aniceto Clarin. Another house inside the lot was being occupied by Nicolas Clarin whenever he went to the land for inspection. A third building of the Clarins was a sort of warehouse used for depositing products and was located in the eastern side of Lot 20. Teodorico (or Federico) Molina, the *encar-*

gado, occupied another house inside the land. Along the river were the homes of the tenants. The other half of the land was then enclosed with barbed wires of four strands. This part of the land was used as pasture for the cattle of the Clarins, which by 1935 numbered around 300. The cattle of other persons were not allowed to graze therein.

The Pacific War came. The livestock of the Clarins were taken by the Japanese or the guerrillas or stolen by civilians. Not one head remained. The big house constructed along the road became dilapidated and, after the war, was demolished and the salvaged materials were used in the construction of a chapel inside the land.

From 1936 up to 1946, the overseer of all the lands in Carmen, including the land in question, was Pacifico I. Rejas. His assistant from 1944 to 1946 was Emiliano Bungco. In 1946, the land in question was under the care of Emiliano Bungco as overseer. Amongst the tenants of the Clarins, then, were Margarito Anabiesa, Narciso Kapunag, Panfilo Calamba, Francisco Jivarola, Facundo Galgao, Santiago Sumampong, Segundo Polinar, Alipio Rejas, Felipe and Nicolas Pasoc, Nicolas Ucol, Bienvenido Salisi, Antonio Alcoser, and Demetrio, Doro-teo and Silvino, all surnamed Berondo.

In 1947, Anatolio Plando succeeded Emiliano Bungco as overseer of the land in question. There were more than twenty tenants then, among whom were Santiago Sumampong, Felipe Pasoc and Panfilo Calamba. Those tenants planted the land to palay, corn, cassava, camote, bananas and other fruit trees. Some of the coconut trees in the land were more than twenty years old and the bamboo clumps were about twenty to thirty years in age.

From 1893 up to 1950, the possession of the Clarins, as owners, was peaceful. It was only in the last-named year that squatters entered the land. Plando reported this to the Clarins who took action against them.

Right from the start of the American administration, the late Aniceto Clarin had the lands declared for taxation purposes. The last tax declaration of the property is in the name of the Clarin Hermanos. Taxes thereon have been duly paid. Exhibits F, F-1, G, and G-1.

1. The first error assigned in appellant's brief is that the lower court erred in considering Exhibit D as a "composition title" and as evidence of possession by the heirs of Aniceto Clarin of Lot No. 20 of the Carmen Public Land Delimitation No. 4.

The trial court declared that it entertained serious doubt as to whether the composition title was valid, in the words of the court, "bearing in mind that, in accord-

ance with the Royal Decree of August 31, 1888, the Provincial Board or the *Gobernadorcillo* or Chief of the Province has no jurisdiction to pass upon any application where the area of land applied for exceeds 30 hectares. (Lienau *vs.* Insular Government, et al., 6 Phil. 230)". The court further stated that one "will find strong reason not to uphold the validity of the composition title (Exhibit D), it having been issued by authorities devoid of jurisdiction to grant it." The court below is correct. For, by the Royal Decree of June 25, 1880, the period for filing applications for composition title expired on September 8, 1881, that is, one year from the publication of the said royal order in the *Gaceta de Manila*. This period was extended for one year by the Royal Decree of July 13, 1881 for those who tilled their lands and brought them to a state of cultivation. Director of Lands *vs.* Absolo, et al., 46 Phil., 282, 303-304. But here, the application of Aniceto Clarin y Velez was filed only on October 19, 1893.

While it is true that Aniceto Clarin does not come within the coverage of the Royal Decree of June 25, 1880 as extended, still, upon the provisions of the Royal Decree of February 13, 1894, applications for adjustment could yet be made up to April 17, 1894, after which no petition for the purpose could be entertained. Needless to repeat, the application of Aniceto Clarin was filed on October 19, 1893 - i.e., within the period. However, by Article 6 of the said Royal Decree of February 13, 1894, the jurisdiction of the provincial boards to approve applications for composition title was limited to 30 hectares. It appearing that the provincial board of Bohol in its session held on February 15, 1895 approved the application herein which covered much more than 30 hectares, that approval is of no force or effect. Lienau *vs.* Insular Government, et al., 6 Phil., 230, 230-231; Vargas & Mañalac, the Philippine Land Registration Law (1931), Vol. 1, pp. 28-31.

But, although the *titulo de composicion*, Exhibit D, by itself alone did not vest title over the land in question to Aniceto Clarin, we hold that the said document is an imperfect title within the meaning of Section 48 of Commonwealth Act No. 141. There was an application for such a composition title. What prevented that application from ripening into a perfect title was that it was approved by the wrong authority—the provincial board. All that was lacking was the approval of such application by the *Direccion General de Administracion Civil*. Article 8, Royal Decree of February 13, 1894.

Stock must be taken of the fact that one could not apply for a composition title unless he was in possession of

the property. Exhibit D states that prior to October 19, 1893, when the application for composition title was filed, Aniceto Clarin had been in possession of and cultivated the land in question as owner (*viene poseyendo y cultivando á título de dueño*). What is more, the positive finding of the commissioners who investigated the application is that at least parcels 17, 18 and 19 (which now constitute a great part of the property in question) applied for by Aniceto Clarin (see Exhibit E), were, at the time of the inspection of the property, *under cultivation*. Although nothing was said about parcel No. 20, it was also in the possession of Aniceto Clarin, so much so that there was no adverse claim thereto, and the *perito practico* stated that, "*practicada las operaciones de medicion y tasacion, * * * es de parecer que al interesado se le considera como dueño posesorio de las fincas expresadas*". Besides, it was not at all improbable that said parcel No. 20 was the portion of the property then used as grazing land. As this *título de composicion*, Exhibit D, was recorded and considering the fact that the commissioners and the *perito practico* made the finding in the performance of their duties, as public officers, we believe that the said Exhibit D is *prima facie* evidence of the facts stated therein. Section 35, Rule 123, Rules of Court. Accordingly, the lower court was right when it stated that the composition title, Exhibit D, may be considered as evidence of possession of the heirs of Aniceto Clarin.

"2. The second error assigned in appellant's brief reads: The lower court erred in holding that the heirs of Aniceto Clarin have thru their predecessor in interest possessed Lot No. 20, and enjoying its products, since long before July, 1894, declaring the said lot as a result thereof to be the private property of said claimants and in not considering the land as public land under the administration, supervision and disposition of the Director of Lands."

Upon the evidence of record, oral and documentary, there is no question in our mind that Aniceto Clarin was in possession of Lot No. 20 of the Carmen Public Land Delimitation No. 4, since 1893, in concept of owner; and that upon his death in 1906, he was succeeded by his heirs. Their possession may not be of every square meter of the ground but, just the same, is not a mere fiction. It is actual. Part of the land was cultivated and the remainder was used as pasture. That land, at various times, was enclosed with fence, either wholly or only as to portions thereof dedicated to cultivation and used for grazing. The land was not open for the use of the cattle belonging to other persons. Even appellant's own witness, the 75-year old Valentin Cagon declared that the other cattle owners in that place "had their own lands also

on which they pastured their own cattle." Tr., p. 221. The import of this testimony is that the land in question was not a communal pasture; rather, it was exclusively that of Aniceto Clarin and his heirs.

None of the witnesses for appellant ever categorically declared that Lot No. 20, aforesaid, did not belong to the deceased Aniceto Clarin or to his heirs, the present claimants. On the contrary, there is evidence to show that some of those who filed their answers claiming to be homesteaders were, at one time or another, tenants of the Clarins in this land. We refer to Santiago Sumampong, Felipe Pasoc, Panfilo Calamba and Alipio Rejas. Pacifico I. Rejas who also filed an answer in the present proceedings was an *encargado* of the Clarins in the land in question. Proof of this is his report, Exhibit I, rendered on January 25, 1945. In that report, Felipe Pasoc was named as one of the herdsmen of the cattle of the Clarins and tenant at the same time; Panfilo Calamba, as one of the tenants who lost one carabao "during the Turmoil"; and Santiago Sumampong as also a tenant in Bicao. None of these so-called homesteaders of portions of Lot No. 20, has filed an homestead application with the Bureau of Lands.

Correctly, Provincial Land Officer Mabunga labelled claimants Agripino Melicor, Norberto Dingal, Alipio Rejas, Paulo Dingal, Santiago Sumampong, Sergio Javier, Pedro Jaojao, Feliciano Gabuna, Felipe Pasoc, Concordio Rulona, Panfilo Calamba and Alberto L. Rulona as "squatters who alleged having filed their homestead applications but we do not have files of their applications in the office." Tr., p. 298.

The position of claimant Pacifico I. Rejas, former *encargado* of the Clarins, deserves comment. In his answer filed in these proceedings (Record, pp. 15 to 19), covering a portion of lot No. 20, Public Land Delimitation No. 4, he claimed ownership thereof because he acquired the same by "Purchase from Felix Clarin, deceased", one of the children of Aniceto Clarin. Speaking of his claim, Pacifico I. Rejas testified that "the Clarin brothers gave that portion to me in consideration of my services to them for ten years." Tr., p. 272. He further declared that in 1946, upon hearing that there would be war between America and Russia, he asked the Clarin brothers to give him a clearance in evidence of his ownership of that portion but that all they gave him was an authorization to apply for homestead (Tr., p. 272-273), which authorization was thereafter revoked. See Exhibit L. The foregoing facts justify the conclusion that this Pacifico I. Rejas has admitted the ownership of the Clarins over Lot No. 20 and is now estopped from questioning the same.

Appellant's brief concedes that "It is true, as the trial court has said, that the Secretary of Agriculture and Natural Resources had admitted or recognized the Spanish title of the claimants, (Exhibit 'J', p. 59, Folder of Exhibits.)" It is likewise true that the decision of the officer just named relative to the validity of that title, was neither final nor indisputable, for that function is incumbent upon the courts of justice. *W. F. Stevenson & Co., Ltd. vs. Rodriguez, et al.*, 63 Phil., 877, 880. But, the legal import of Exhibit J, the decision of the Secretary of Agriculture and Natural Resources dated February 21, 1930, confirming that of the Director of Lands of August 1, 1929, is that parcel 20 of the *titulo de composicion*, Exhibit D (part of which now is a portion of Lot No. 20 in dispute), was not open for entry as a public land by homestead applicants. This decision upon a question of fact is conclusive. Section 4, Commonwealth Act No. 141; *Julian vs. Apostol, et al.*, 52 Phil., 422, 427-428; *Ortua vs. Encarnacion, et al.*, 59 Phil., 440, 443-444; *Alejandrino vs. Aquino, et al.*, 70 Phil., 113, 115. As shown in the sketch Exhibit 2, that portion of Lot No. 20 is the precise area on which Pacifico I. Rejas aforesaid claims he works as homesteader.

The record discloses that Eustaquia Clarin, Olegario B. Clarin and Imelda Clarin, the surviving children of the deceased Aniceto Clarin, are Filipino citizens; that the said Aniceto Clarin failed to obtain a valid title to the land, now Lot No. 20 of the Carmen Public Land Delimitation No. 4, for the reason that his application for composition title was approved by the provincial board of Bohol, which had no authority therefor; that while the composition title, Exhibit D, could not by itself alone confer ownership upon Aniceto Clarin, it was an imperfect title and evidence of possession since 1893; that since then, Aniceto Clarin and his successors-in-interest had occupied and cultivated the land as owners thereof. The Clarin claimants, therefore, are entitled to be respected in their ownership of that land, and to the confirmation of their title thereto. Section 48, Commonwealth Act No. 141.

WHEREFORE, the judgment appealed from is hereby affirmed, without costs.

IT IS SO ORDERED.

Natividad and Angeles, JJ., concur.

Judgment affirmed.